

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Wisconsin Energy Corporation, Integrys Energy)	
Group, Inc., Peoples Energy, LLC, The Peoples Gas)	
Light and Coke Company, North Shore Gas Company)	
ATC Management, Inc., and American Transmission)	
Company, LLC)	
)	Docket No. 14-0496
Application pursuant to Section 7-204 of the Public)	
Utilities Act for authority to engage in a)	
Reorganization, to enter into agreements with)	
affiliated interests pursuant to Section 7-101, and for)	
such other approvals as may be required under the)	
Public Utilities Act to effectuate the Reorganization.)	

**JOINT APPLICANTS' INITIAL
POST-HEARING BRIEF**

Dated: March 27, 2015

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Wisconsin Energy Corporation (“Wisconsin Energy”), Integrys Energy Group, Inc. (“Integrys”), Peoples Energy, LLC (“PELLC”), The Peoples Gas Light and Coke Company (“Peoples Gas”), North Shore Gas Company (“North Shore”) (collectively, Peoples Gas and North Shore are referred to herein as the “Gas Companies”), ATC Management Inc. (“ATCM”) and American Transmission Company LLC (“ATCLLC”) (operated as a single entity and referred to collectively herein as “ATC”) (all, collectively, the “Joint Applicants” or “JA”) hereby file with the Illinois Commerce Commission (the “Commission” or “ICC”) this Initial Post-Hearing Brief addressing the Joint Applicants’ August 6, 2014 Application requesting that the Commission approve the proposed Reorganization in which Wisconsin Energy will acquire the common stock of Integrys pursuant to Section 7-204 of Illinois’ Public Utilities Act (the “Act”). 220 ILCS 5/7-204.

I. EXECUTIVE SUMMARY

A. Introduction

On June 22, 2014, Wisconsin Energy entered into a merger agreement with Integrys to purchase 100% of Integrys’ outstanding common stock and which will result, in part, in the creation of a new holding company – WEC Energy Group, Inc. (“WEC Energy Group”) – that will become the ultimate parent company of Peoples Gas and North Shore (the “Reorganization”). *Id.* at 11:222 – 12:258; JA Ex. 1.1; JA Ex. 1.3. The Joint Applicants initiated this proceeding to seek the Commission’s approval of the Reorganization pursuant to Section 7-204 of the Act. The evidence in this case amply demonstrates that the Reorganization not only meets the requirements of Section 7-204, which are designed to ensure that the change in ownership will have no adverse impact on rates or service, but exceeds them by providing numerous benefits for the Gas Companies and their customers. The Reorganization will result in Peoples Gas and North Shore being part of a larger, more stable, financially-stronger holding

company system that is expected to provide long-term savings for customers, which will be achieved without large reductions in force in a manner that is seamless for customers.

Throughout the course of this proceeding, the Joint Applicants strove to work with the Commission's Staff ("Staff"), by providing information and agreeing to various conditions, to obtain Staff's agreement that the Commission should make each of the findings required by Section 7-204 based on the record evidence. Significantly, it is the Joint Applicants' understanding that it is Staff's position that the record evidence does support the Commission making each of the findings required by Section 7-204 to approve the Reorganization. Additionally, the Utility Workers United of America ("UWUA"), Local 18007, Peoples Gas' utility workers union, supports the Commission's approval of the Reorganization. *See* Passarelli Dir., UWUA Ex. 1.0, 3:24 – 4:65. The Joint Applicants, however, were unable to reach agreement with intervenors the Office of the Illinois Attorney General ("AG") and the City of Chicago ("City") and Citizens Utility Board ("CUB") (collectively "City/CUB"), who continue to argue for additional conditions that go far beyond the scope of Section 7-204's requirements. The Commission, therefore, should reject the AG's and City/CUB's proposed conditions and approve the Reorganization with the commitments and conditions agreed to by the Joint Applicants.¹

B. The Section 7-204 Standard

The Joint Applicants initiated this proceeding to obtain the Commission's approval of the Reorganization as required by Section 7-204 of the Act. It is the "comprehensive directives" of Section 7-204 "and no other, that set out the scope of [the Commission's] authority" for the approval of a proposed reorganization. *In re SBC Communications, Inc., et al.*, ICC Docket No.

¹ A complete list of the commitments and conditions agreed to by the Joint Applicants through the time of the filing of this brief is attached hereto as Appendix A, as requested by Staff witness Dianna Hathhorn. *See* Hathhorn Reb., ICC Staff Ex. 12.0, 6:133-137.

98-0555, 1999 Ill. PUC LEXIS 738 (Sept. 23, 1999) at *26. Section 7-204 requires that the Commission make specific findings before approving a reorganization in order to “protect the interests of the utility and its customers.” *Id.* at *26. The specific findings that the Commission must make under Section 7-204 include that a reorganization will not “diminish” a utility’s ability to perform its duties under the Act and provide service to customers, “significantly impair” its ability to raise capital and maintain a reasonable capital structure, have a “significant adverse effect on competition” in markets over which the Commission has jurisdiction, or cause “adverse rate impacts.” *See* 220 ILCS 5/7-204(b)(1), (4), (6), and (7). In other words, Section 7-204 requires that before approving the Reorganization, the Commission must determine that the Reorganization will not have an adverse impact on the ability of the Gas Companies to perform their obligations under the Act and provide service to their customers. *In re GTE Corp. and Bell Atlantic Corp.*, ICC Docket No. 98-0866, 1999 Ill. PUC Lexis 825 at *28 (Oct. 29, 1999) (“At the outset, it must be noted that the standard contained in the statute requires the Commission to evaluate whether the impact of the proposed reorganization will be to diminish service quality, not whether the proposed merger will enhance service quality.”)

C. The Evidence Compels Approval of the Reorganization

The company acquiring Integrys, Wisconsin Energy, is well-suited to acquire, manage, and operate the Gas Companies in a manner that ensures there will be no adverse impact on the Gas Companies’ ability to provide high-quality public utility service to their customers. Wisconsin Energy is a well-established and highly-respected operator of electric and natural gas utilities with a history dating back over 100 years in Milwaukee, Wisconsin. Leverett Dir., JA Ex. 1.0, 5:93-103. Wisconsin Energy has been acknowledged and recognized by the press and third-party evaluators, such as J.D. Power, for outstanding corporate citizenship, commitment to community, reliability of service, customer service and satisfaction, as well as its efforts to

promote supplier diversity through its “Supplier Diversity Initiative” (the “SDI”). *Id.* at 5:106 – 7:138, 8:177 – 10:201. Additionally, Wisconsin Energy has a wealth of experience successfully managing, implementing, and completing large capital infrastructure projects on time, at or under budget, and in compliance with applicable laws and regulations. *See* Leverett Tr. at 213:5-22; Leverett Dir., JA Ex. 1.0, 19:411 – 20:429; Leverett Supp Reply, JA Ex. 14.0, 9:191 – 10:210; JA Ex. 14.1; Hesselbach Supp. Reb., JA Ex. 13.0, 4:76-80; Reed Tr., 360:10 – 361:15, 363:22 – 364:11; AG Cross Ex. 8.

The record evidence clearly establishes that the Reorganization will have no adverse impact whatsoever with respect to the Gas Companies’ service or their customers. This merger is primarily motivated by the business objective of creating a combined company that has strong cash flows that can be prudently invested in needed energy infrastructure. Leverett Dir., JA Ex. 1.0, 17:370-372. Thus, unlike other corporate transactions that are motivated by a belief that consolidation can result in large, quickly-achieved “synergy” savings, Wisconsin Energy has no plans to make large-scale reductions in employee headcount. *Id.* at 17:368-380; Reed Dir., JA Ex. 3.0, 8:161-164. As discussed in more detail in this brief, the Joint Applicants have committed to maintain a minimum level of employment in Illinois and to honor the Gas Companies’ existing labor agreements with their unions. *See* Leverett Dir., JA Ex. 1.0, 17:361-364, 18:383-384; Leverett Sur., JA Ex. 15.0, 15:339 – 16:354; Passarelli Dir., UWUA Ex. 1.0, 3:36-37.

From the perspective of Peoples Gas’ and North Shore’s customers, the Reorganization will be seamless, as they will continue to receive high-quality, adequate, safe, and reliable gas service at the same cost as they did before the Reorganization. *Id.* at 16:350-353; Leverett Reb., JA Ex. 6.0, 9:265-268. The Gas Companies will maintain local management and their local

operational headquarters will remain where they are located now in downtown Chicago and Waukegan. Leverett Dir., JA Ex. 1.0, 16:348-350; Leverett Reb., JA Ex. 6.0, 9:261-265, 10:287-289; Reed Reb., JA Ex. 8.0, 14:272-274. Customers will continue to interact with the Gas Companies when they need service, have questions, or must request assistance the same as they would in the absence of the Reorganization. Leverett Dir., JA Ex. 1.0, 16:353-355. Further, the Joint Applicants have committed to continuing Peoples Gas' Accelerated Main Replacement Program (the "AMRP") on the same basis as Integrys (along with additional commitments intended to improve the program and the implementation of audit recommendations as explained below). *See* Leverett Reb., JA Ex. 6.0, 15:405-409; Leverett Sur., JA Ex. 15.0, 9:180-184; Schott Reb., JA Ex. 9.0 REV, 4:75-79; Schott Sur., JA Ex. 18.0, 3:47-49; JA Ex. 15.1 REV, at No. 5. In sum, at a minimum, the Reorganization will leave the Gas Companies and their customers in the same position as they would have been if the Reorganization had not occurred, which is sufficient to meet Section 7-204's standard for the Commission to approve the Reorganization.

The Reorganization, however, goes beyond the minimum maintenance of status quo required for approval under Section 7-204, and will provide real benefits for the Gas Companies and their customers. The benefits that the Reorganization will provide for the Gas Companies and their customers include:

- Creating a stronger, more financially stable holding company with both greater financial liquidity and improved access to capital markets, potentially reducing debt costs in the long-term. Reed Dir., JA Ex. 3.0, 28:571 – 29:589; Reed Reb., JA Ex. 8.0, 6:125 – 7:132, 10:188 – 11:217; Reed Tr., 409:14 – 410:12.
- Generating expected long-term (*i.e.*, 5-10 years from closing) net savings in non-fuel operations and maintenance expense ("O&M") relative to what non-fuel O&M would have been absent the Reorganization in the range of 3% to 5%. Reed Dir., JA Ex. 3.0, 32:665 – 39:780.

- The sharing of best practices, including Wisconsin Energy’s acclaimed customer satisfaction and customer service ratings and best practices being incorporated into Illinois service that have led to its utilities being consistently ranked near the top of their peer group in terms of reliability and customer satisfaction, earning recognition from third-party evaluators such as J.D. Power and PA Consulting Group. Leverett Dir., JA Ex. 1.0, 5:106 – 7:138; Reed Dir., JA Ex. 3.0, 31:632-640.
- Holding company management with an established history of successfully completing large capital projects on time with a focus on cost control and accountability. *See* Leverett Tr. at 213:5-22; Leverett Dir., JA Ex. 1.0, 19:411 – 20:429; Hesselbach Supp. Reb., JA Ex. 13.0, 4:76-80; Reed Tr., 360:10 – 361:15, 363:22 – 364:11.
- Implementing Wisconsin Energy’s “SDI” vendor diversity program at the Gas Companies. Leverett Dir., JA Ex. 1.0, 20:438-444.
- No increase in the base rates set by the Commission for the Gas Companies in its January 21, 2015 final Order, as modified by its February 11, 2015 Second Amendatory Order, in Docket Nos. 14-0224/14-0225 (cons.) for at least two-years from the closing of the merger. Leverett Dir., JA Ex. 1.0, 21:446-464; Leverett Tr., 168:15 – 172:9.
- In addition to the Joint Applicants agreeing not to seek recovery of any transaction costs or acquisition premium, there will be no recovery of any transition costs incurred by the Joint Applicants between the close of the Reorganization and the test year for the first rate cases to be filed by the Gas Companies thereafter. *See* Reed Tr., 405:19 – 407:7.
- The donation of \$5 million in shareholder money to Peoples Gas’ Share the Warmth fund over the next five years, beginning with \$1 million being contributed in 2015. Leverett Reb., JA 6.0, 31:793-797.
- A commitment that the Gas Companies will build a new, state-of-the-art training facility in the City of Chicago. Leverett Reb., JA Ex. 6.0, 30:767-776.
- Honoring the 5-year extension, from April 2015, of the Gas Utility Workers Training Program in which Peoples Gas works with the Power 4 America Training Trust Fund, in cooperation with UWUA Local 18007, at the Kennedy-King College’s Dawson Technical Institute. Leverett Reb., JA Ex. 6.0, 31:777-785; Passarelli Dir., UWUA Ex. 1.0, 3:46 – 4:51.
- Commitments regarding the implementation of recommendations for the AMRP provided in the final report of the Liberty audit investigation that were requested by Staff. Leverett, Reb., JA Ex. 6.0, 15:410 – 17:463; Leverett Sur., JA Ex. 15.0,

8:161-168; JA Ex. 15.1 REV., at Nos. 9-11; Lounsberry Reb., ICC Staff Ex. 9.0, 8:197 – 10:247.

- Commitments ensuring that Peoples Gas works with the City on the coordination of AMRP and for the Joint Applicants to review and attempt to improve their performance with respect to the AMRP on a continuing basis as work on the project progresses. JA Ex. 15.1 REV., at Nos. 7, 35.
- The development of a Pipeline Safety Management System and new process for locating meters in consultation with Staff. Webb Sur., JA Ex. 20.0, 2:31-39, 4:71-76.
- The Gas Companies agreeing not to seek recovery of certain rate case expenses in future rate cases. ICC Staff Group Cross Ex. 1, at p. 6.
- New protections to secure the financial strength of Peoples Gas and North Shore:
 - Prohibition on the Gas Companies lending to non-utility affiliates as otherwise allowed by the Act and Commission rules (Lauber Reb., JA Ex. 7.0, 15:331 – 16:335);
 - Prohibition on the Gas Companies guaranteeing any obligations of non-utility affiliates (Lauber Reb., JA Ex. 7.0, 16:336-339);
 - Maintaining separate credit facilities that existed prior to the Reorganization not accessible to or influenced by non-utility affiliates (Lauber Sur., JA Ex. 16.0, 7:158 – 8:169);
 - Requiring annual reports on holding company debt and any plans to reduce the debt, along with proportional information on non-regulated operations (ICC Staff Group Cross Ex. 1, at p. 2);
 - Submission of all credit reports and bulletins specific to the Gas Companies and WEC Energy Group to the Commission (*Id.* at p. 4); and
 - Performing a study of appropriate post-merger capital structures for the Gas Companies before the filing of their next rate cases (Lauber Sur., JA Ex. 16.0, 12:279 – 13:289).

Thus, not only does the evidence demonstrate that the Reorganization will have no adverse effects on the Gas Companies or their customers, but that the Reorganization will create many affirmative benefits, as well. The Joint Applicants respectfully request Commission approval of the proposed Reorganization pursuant to Section 7-204 of the Act, as well as other related approvals. The Joint Applicants have worked diligently to resolve issues relating to the

proposed Reorganization. To that end, the Joint Applicants have made several commitments, as well as agreed to a variety of conditions proposed by Staff and other parties to this proceeding.

The Joint Applicants believe that the parties' efforts to narrow the issues have been successful in reducing the open issues to only areas in which intervenors the AG and City/CUB are asking the Commission to impose additional conditions on its approval of the Reorganization in order to "improve" service quality, particularly with respect to the AMRP, create and fund additional energy efficiency requirements beyond what is required by law, adopt intervenor arguments that the Commission did not accept in previous rate proceedings, and extend the period of time for which Joint Applicants agreed not to increase base rates. The Joint Applicants will address these issues below and explain why such additional conditions are not required by Section 7-204 for the Commission's approval of the Reorganization.

In conclusion, the evidentiary record fully supports the required findings under Section 7-204 of the Act and, therefore, Commission approval of the proposed Reorganization. Accordingly, the Joint Applicants respectfully request that the Commission approve the proposed Reorganization.

II. RELIEF REQUESTED

The Joint Applicants have requested that the Commission make the following findings and approvals:

1. the Commission's approval, under Sections 7-204 and 7-204A of the Act, to engage in the Reorganization, through which Peoples Gas and North Shore will become subsidiaries of WEC Energy Group, and WEC Energy Group will become the majority owner of ATCM and ATCLLC;
2. the Commission's approval under Section 7-102 of the Act (to the extent required) to engage in the Reorganization;
3. the Commission's authorization, pursuant to Sections 7-101 and 7-204A(b) of the Act, for entry by the Gas Companies into the Interim WEC Energy Group Affiliated Interest Agreement;

4. the Commission's authorization for any required proposed accounting entries associated with the Reorganization; and
5. the Commission's authorization for taking such other measures in connection with the Reorganization as may be reasonably necessary for effecting the Reorganization.

See Application at 15-26.

III. RESOLVED ISSUES BETWEEN THE JOINT APPLICANTS AND STAFF ON THE REQUIRED SECTION 7-204 FINDINGS

The Joint Applicants and Staff were the only two parties in this proceeding to address all of the required findings set forth in Section 7-204 of the Act. Significantly, based on the conditions and commitments agreed to by the Joint Applicants in this proceeding, it is the Joint Applicants' understanding that the Joint Applicants and the Staff are in agreement that the evidentiary record supports the Commission making each of the findings required by Section 7-204 for the Commission to approve the proposed Reorganization. The following discussion identifies and addresses the evidence that supports the Commission making each of the findings required by the provisions of Sections 7-204(b) and 7-204(c).

A. Section 7-204(b)(1)

Section 7-204(b)(1) requires that the Commission find that "the proposed reorganization will not diminish the utility's ability to provide adequate, reliable, efficient, safe and least-cost public utility service." 220 ILCS 5/7-204(b)(1). The Commission has determined that with respect to this subsection, "[t]he intention of the statute is to sustain the utility's service quality status quo, not to achieve quality improvements." *AGL Resources Inc., Nicor Inc., et al.*, ICC Docket No. 11-0046 (Dec. 7, 2011) Order at 13. In particular, with respect to Section 7-204(b)(1)'s required finding, the Commission has stated:

Significantly, this subsection focuses on whether the impact of the reorganization will "diminish" [a utility's] ability to provide certain aspects of

service, not on whether the merger will improve or enhance those aspects.

In re SBC Communications, Inc., et al., ICC Docket No. 98-0555, 1999 Ill. PUC LEXIS 738 at *43 (Sept. 23, 1999) (emphasis added).

Here, the record evidence demonstrates that the proposed Reorganization meets the standard set forth in Section 7-204(b)(1). The Joint Applicants have the experience, ability, and financial resources to maintain the Gas Companies' service quality. Wisconsin Energy has a proven track record of successfully managing and operating electric and natural gas utilities, including the implementation and management of large-scale capital programs on time, on budget, and in compliance with applicable laws and regulations. Leverett Dir., JA Ex. 1.0, 4:83 – 7:138, 8:168-176, 19:411 – 20:429; Leverett Supp. Reply, JA Ex. 14.0, 10:204-210; JA Ex. 14.1; AG Cross Ex. 8; Hesselbach Tr., 324:14-20; Reed Tr., 363:22 – 364:11.

Moreover, the Joint Applicants have made several commitments designed to ensure continuity in the Gas Companies' service so that the Reorganization will be seamless for Illinois customers. Peoples Gas and North Shore will continue as separate operating utilities, maintain their respective names, and maintain their operating headquarters in Chicago and Waukegan, respectively. Leverett Dir., JA Ex. 1.0, 16:341-357; Reed Dir., JA Ex. 3.0, 7:143-146. The Joint Applicants have committed that there will be at least one non-employee individual resident of Illinois on WEC Energy Group's board of directors, similar to what the Commission ordered in its approval of the AGL Resources Inc. ("AGL")-Nicor Gas merger. Leverett Dir., JA Ex. 1.0, 23:503 – 24:512. The Joint Applicants also have committed to honoring the Gas Companies' existing philanthropic pledges and maintaining Integrys' existing levels of involvement in the communities that the Gas Companies serve. *Id.* at 23:492-501; JA Ex. 15.1 REV., at No. 8.

Further, the Joint Applicants have committed to honoring the Gas Companies' existing labor agreements and maintaining the Gas Companies' existing training programs for at least two

years after the close of the Reorganization. Leverett Dir., JA Ex. 1.0, 17:361-364, 18:384-387; Reed Dir., JA Ex. 3.0, 8:149-151; Passarelli Dir., UWUA Ex. 1.0, 3:36-45. Additionally, the Joint Applicants have agreed to continue to support the recent five-year extension, from April 2015, of the Gas Utility Workers Training Program in which Peoples Gas works with the Power 4 America Training Trust Fund, in cooperation with UWUA Local 18007, at the Kennedy-King College's Dawson Technical Institute. Leverett Reb., JA Ex. 6.0, 31:777-785; Passarelli Dir., UWUA Ex. 1.0, 3:46 – 4:51. Furthermore, in response to a request from the City of Chicago, the Joint Applicants have committed that the Gas Companies will build a new, state-of-the-art training facility in the City of Chicago. Leverett Reb., JA Ex. 6.0, 30:767-776.

There are four additional areas that have been the focus of efforts by the Joint Applicants and Staff to reach agreement with respect to Section 7-204(b)(1): (1) due diligence concerning the AMRP, (2) commitments regarding continuation of the AMRP and the implementation of recommendations from the Commission-ordered investigation of the project, (3) capital expenditure commitments, and (4) commitments regarding minimum levels of full-time equivalents ("FTEs"). The Joint Applicants, through the commitments and clarifications made in their rebuttal and surrebuttal testimony, have addressed the concerns raised by Staff witness Eric Lounsberry so there should be no dispute with Staff in these areas as to the Reorganization meeting the requirements of Section 7-204(b)(1). These four areas are addressed below.

1. Due Diligence

Prior to entering into the Merger Agreement with Integrys, Wisconsin Energy conducted the standard due diligence for a transaction of this nature, involving an assessment of the material condition of Integrys, an analysis of whether the financial and economic projections are reasonable, and an evaluation of the business, financial and regulatory risk of Integrys. Leverett Reb., JA Ex. 6.0, 14:381-385; Reed Reb., JA Ex. 8.0, 12:242 – 13:258, 13:265-268. This

involved a review of material, non-public financial information and projections, operational data, capital investment plans, and strategic outlooks. Leverett Reb., JA Ex. 6.0, 14:387-392; Reed Reb., JA Ex. 8.0, 12:244 – 13:258; Leverett Tr., 181:8-16; Reed Tr., 424:16 – 426:22. As is customary for mergers such as the Reorganization where the intention is for the acquired utilities to remain in current form without any large reductions in force, Wisconsin Energy’s pre-merger due diligence did not include investigation into the specifics of the Gas Companies’ “on-the-ground” operations, such as detailed work plans for the AMRP. Leverett Reb., JA Ex. 6.0, 14:385-387; Reed Reb., JA Ex. 8.0, 13:259-268; AG Cross Ex. 3 (JA response to data request AG 4.01).

Staff witness Mr. Lounsberry raised concerns that this level of customary due diligence did not provide Wisconsin Energy with sufficient information concerning the size and scope of the AMRP, and the potential issues that would need to be addressed with respect to that project after the close of the Reorganization. *See* Lounsberry Dir., ICC Staff Ex. 2.0, 21:508 – 22:523; Lounsberry Reb., ICC Staff Ex. 9.0, 27:653-655. During the course of this proceeding, however, Staff witness Harold Stoller provided an Interim Report prepared by the Liberty Consulting Group (“Liberty”) containing preliminary findings and recommendations made during its Phase I investigation of the AMRP that had been ordered by the Commission in its Order issued in Peoples Gas’ 2012 rate case (“Interim Report”).² Lounsberry Reb., ICC Staff Ex. 9.0, 27:655-660; Stoller Reb., ICC Staff Ex. 8.0, 9:160 – 11:206 and Attach. A. Wisconsin Energy’s management reviewed the Interim Report and submitted testimony that it agrees with the approach for management and implementation of large capital programs as Liberty outlines in the Interim Report, that it supports the current commitments and initiatives undertaken by

² *North Shore Gas Co., The Peoples Gas Light and Coke Co. – Proposed General Increase in Rates*, ICC Docket Nos. 12-0511/12-0512 (cons.), Order (June 18, 2013) at 61 (hereinafter referenced as “*Peoples Gas 2012 Rate Case*”).

Integrus and Peoples Gas in response to the Interim Report, and is ready, willing and able to implement the AMRP consistent with Liberty's ultimate recommendations in its final report expected to be issued in mid-2015. *See generally* Leverett Supp. Reb., JA Ex. 12.0; Hesselbach Supp. Reb., JA Ex. 13.0, Leverett Supp. Reply, JA Ex. 14.0; Hesselbach Tr., 323:20 – 324:20.

Based on this additional information reviewed by Wisconsin Energy, Mr. Lounsberry has concluded that the level of due diligence conducted by the Joint Applicants does not prevent the Reorganization from meeting the requirement of Section 7-204(b)(1). Lounsberry Reb., ICC Staff Ex. 9.0, 27:660-662.

2. AMRP

The Joint Applicants understand that the AMRP is an important capital project for Peoples Gas that will modernize its distribution system, thereby increasing safety and reliability of service for customers, as well as reduce O&M costs over time and help reduce greenhouse gas emissions. Schott Dir., JA Ex. 4.0 REV., 8:163-165. The AMRP as planned is a 20-year program pursuant to which Peoples Gas intends to complete the replacement of its cast-iron and ductile-iron natural gas mains and service pipes, as well as upgrade its distribution system from a low pressure system to a medium pressure system and relocate gas meters from inside customer facilities to outside, by 2030. Leverett Dir., JA Ex. 1.0, 18:397-400; Schott Dir., JA Ex. 4.0 REV., 8:159-163.

Understanding that there may have been concerns that the proposed Reorganization could impact the continuation of the AMRP, and thereby diminish the level of service Peoples Gas' customers would have received in the absence of the merger, the Joint Applicants made several commitments to address such concerns. Primarily, the Joint Applicants have committed that Peoples Gas will continue the AMRP on the same basis as it currently does: with the intention of completing the AMRP by 2030, assuming it receives and continues to receive appropriate cost

recovery.³ Leverett Reb., JA Ex. 6.0, 15:403-409; Schott Reb., JA Ex. 9.0 REV., 4:75-79; Leverett Sur., JA Ex. 15.0, 9:180-184; JA Ex. 15.1 REV., at No. 7. Further, the Joint Applicants have committed to ensuring that Peoples Gas works with the City on the coordination of AMRP and for the Joint Applicants to review and attempt to improve their performance with respect to the AMRP on a continuing basis as work on the project progresses. Leverett Dir., JA Ex. 1.0, 20:430-436; Leverett Reb., JA Ex. 6.0, 20:531-534; JA Ex. 15.1 REV., at Nos. 7, 35. Additionally, as discussed above, the Wisconsin Energy reviewed Liberty's Interim Report and is ready, willing, and able to implement the AMRP consistent with Liberty's ultimate recommendations in its final report expected to be issued in mid-2015, in accordance with the procedures set forth in the conditions agreed to with Staff in this proceeding (discussed in detail below). Leverett Supp. Reb., JA Ex. 12.0, 4:65-87.

Staff witness Mr. Lounsberry recommended additional commitments to ensure that, post-Reorganization, the Joint Applicants would continue to work with Liberty on the proper implementation of the recommendations Liberty will make in its final investigation report, as well as report any changes to their implementation after Liberty completes its two-year Phase II verification process ordered in the *Peoples Gas 2012 Rate Case*. See Lounsberry Dir., ICC Staff Ex. 2.0, 17:417 – 18:444; Leverett Supp. Reply, JA Ex. 14.0, 5:99 – 6:124. Through refinements made in their rebuttal and surrebuttal testimony, the Joint Applicants and Staff agreed to the language of three conditions that Mr. Lounsberry found adequately addressed his concerns (numbering taken from JA Ex. 15.1 REV.):

9. With respect to each recommendation contained in the final report of the investigation of Peoples Gas' AMRP completed at the direction of the Commission in its June 18, 2013 Order in Docket No. 12-0512 under the authority granted in Section 8-102 of the Act (220 ILCS 5/8-102), Peoples Gas

³ "Appropriate cost recovery" means timely recovery of the utility's reasonable and prudent expenditures. See AG Cross Ex. 6 (JA response to data request AG 15.02) at sub. (a).

shall evaluate the recommendation and implement it if the recommendation is possible to implement, practical and reasonable from the standpoint of stakeholders and Peoples Gas customers, and cost-effective. Implementing a recommendation means taking action per a recommendation. If Peoples Gas determines that a recommendation is not possible, practical, and reasonable, including that the recommendation would not be cost-effective or would require imprudent expenditures, Peoples Gas shall provide an explanation of Peoples Gas' determination with all necessary documentation and studies to demonstrate to the satisfaction of the Commission Staff that strict implementation of the recommendation is not possible, practical, or reasonable, along with an alternative plan to accomplish the goals of the recommendation as fully as is possible, practical, and reasonable. In the event that Peoples Gas and Commission Staff cannot reach agreement as to whether a recommendation should be implemented and/or how it should be implemented, Peoples Gas may file a petition to obtain the Commission's determination as to whether and/or how the recommendation is to be implemented.

10. Peoples Gas will cooperate fully with the Commission's Staff and consultants as they work to verify that Peoples Gas has implemented the recommendations in the final report on the Peoples Gas' AMRP investigation to the extent it is determined they should be implemented pursuant to Condition #9, above. Cooperation means to provide requested personnel who are reasonably involved in, connected to, and/or relevant to the AMRP and/or the Liberty audit for interviews in a timely manner in which the personnel interviewed shall provide, to the best of their ability, accurate and complete non-privileged information in response to questions asked, to answer written questions in a reasonable time with accurate and complete non-privileged information, and to make all non-privileged information, equipment, work sites, work forces and facilities available for inspection upon reasonable request.
11. Peoples Gas will provide written reports to the Commission Staff on or before January 1 and July 1 of each year, beginning in the year 2018 and ending only after the completion of the AMRP or any successor program that replaces the AMRP, about any change in implementation of the recommendations in the final report of the investigation of Peoples Gas' AMRP to the extent it is determined they should be implemented pursuant to Condition #9, above. An officer of Peoples Gas shall provide written verification of the accuracy and completeness of each report.

Leverett Reb., JA Ex. 6.0, 15:410 – 17:463; Lounsberry Reb., ICC Staff Ex. 9.0, 8:192 – 9:247;

Leverett Sur., JA Ex. 15.0, 8:161-168; JA Ex. 15.1 REV., at Nos. 9-11.

Furthermore, contrary to some misunderstandings by intervenors (*see* Coppola Supp. Reb., AG Ex. 5.0, 11-13), commitments and other provisions exist to ensure that the Commission

will be kept apprised of progress on the implementation of Liberty's final recommendations on an ongoing basis. The Commission's Staff will be involved in the implementation process, and there are annual proceedings with respect to Peoples Gas' Rider QIP, Qualifying Infrastructure Plant, in which AMRP investments will be reviewed and thus, to the extent relevant, findings and recommendations from Liberty's final report may be considered in those proceedings. Leverett Supp. Reply, JA Ex. 14.0, 6:126-130. Also, because the implementation of Liberty's final recommendations will be governed by the conditions agreed to by the Joint Applicants discussed above, the Joint Applicants will be required to file a semi-annual compliance report regarding their progress on satisfying this condition and have such compliance addressed by the WEC Energy Group's CEO in an annual report to the Commission. *Id.* at 6:130 – 7:135; JA Ex. 15.1 REV., at Nos. 25-26; Leverett Tr., 155:20 – 157:7.

Additionally, in his rebuttal testimony, Mr. Lounsberry requested that the Joint Applicants agree to a commitment that they would "reaffirm Peoples Gas' commitment to the Commission" from Peoples Gas' 2009 rate case in which Peoples Gas had sought the Rider ICR recovery mechanism "to complete the [AMRP] by the end of 2030." Lounsberry Reb., ICC Staff Ex. 9.0, 15:400-404. As Joint Applicants witness Mr. Schott explained, however, the language of this commitment would be problematic, because Peoples Gas did not make a commitment in its 2009 rate case that could be "reaffirmed." Schott Sur., JA Ex. 18.0, 2:37 – 4:72; Leverett Sur., JA Ex. 15.0, 8:173-179. Accordingly, to address Mr. Lounsberry's concern, the Joint Applicants remain committed to having Peoples Gas continue the AMRP, assuming it receives and continues to receive appropriate cost recovery, with a planned 2030 completion date. Leverett Sur., JA Ex. 15.0, 9:180-184; JA Ex. 15.1 REV., at No. 5.

3. Capital Expenditures

Staff witness Mr. Lounsberry also sought a commitment from the Joint Applicants concerning future levels of capital expenditures for the Gas Companies to ensure that there is no diminishment in their ability to provide adequate, reliable, efficient, safe and least-cost public utility service as required by Section 7-204(b)(1). *See* Lounsberry Dir., ICC Staff Ex. 2.0, 31:724-737. In response to Mr. Lounsberry's concerns, through their rebuttal and surrebuttal testimony, the Joint Applicants have made a commitment to make at least \$1 billion in capital expenditures for Peoples Gas and at least \$43 million in capital expenditures for North Shore during the 2015 through 2017 time period, with a running total to be provided in the Gas Companies' semi-annual compliance report to the Commission. Lauber Reb., JA Ex. 7.0, 8:156-160; Lauber Sur., JA Ex. 16.0, 3:63 – 4:83; JA Ex. 15.1 Rev., at No. 13. The Joint Applicants' acceptance of these terms for their capital expenditure commitments has complied with Mr. Lounsberry's recommendations for a capital expenditure commitment that he believes will satisfy Section 7-204(b)(1)'s requirements. Lounsberry Reb., ICC Staff Ex. 9.0, 22:551-556, 24:596 – 25:615.

4. FTEs

Unlike what occurs in many corporate consolidations, the Joint Applicants are not planning a large-scale reduction in force after the close of the Reorganization. Leverett Dir., JA Ex. 1.0, 17:365-377; Reed Dir., JA Ex. 3.0, 7:146 – 8:147. The vast majority of any reductions in employee headcount are expected to occur over time through attrition – *i.e.*, voluntary decisions by employees to leave the company, such as retirements and voluntary departures. Leverett Dir., JA Ex. 1.0, 17:377-380; Reed Dir., JA Ex. 3.0, 33:674-675. This will minimize disruptions to the workforce and the local communities, and will allow the combined company

the time necessary to develop, implement and realize the benefits of a prudent integration plan. Reed Dir., JA Ex. 3.0, 33:679-682.

To demonstrate their commitment to this approach, the Joint Applicants have proposed an enforceable commitment to maintain *at a minimum* a floor-level of employment *in Illinois* of 1,953 FTEs for at least two years after the close of the Reorganization. Leverett Dir., JA Ex. 1.0, 18:383-384; Leverett Reb., JA Ex. 6.0, 23:612-614, 24:633-636; Leverett Sur., JA Ex. 15.0, 13:294 – 14:301. This would include, in the aggregate, the employment levels at the Gas Companies and Illinois-based employment levels at the shared services company, Integrys Business Support, LLC (“IBS”). *See* Leverett Reb., JA Ex. 6.0, 23:612 – 24:625. This commitment, however, is not designed to set the target employment levels at the Gas Companies or IBS; actual employment levels at each of Peoples Gas, North Shore, and IBS in Illinois will be determined based upon what levels are needed to provide adequate, reliable, efficient, safe, and least-cost utility service and may, in the aggregate, require more than 1,953 FTEs in Illinois. *Id.* For the Gas Companies in 2015 and 2016, the target employment levels that the Joint Applicants plan to have in place to provide adequate, reliable, efficient, safe, and least-cost utility service are 1,356 FTEs for Peoples Gas and 177.7 FTEs for North Shore, based upon the FTE levels approved for recovery in rates by the Commission in its final Order in the Gas Companies’ most recent rate case, Docket Nos. 14-0224/14-0225 (cons.). *Id.* at 24:626-630.

In his rebuttal testimony, Staff witness Mr. Lounsberry had proposed modifying the commitment to provide that specific FTE levels be maintained for Peoples Gas, North Shore, and IBS. *See* Lounsberry Reb., ICC Staff Ex. 9.0, 21:520-522. As the Joint Applicants explained in their surrebuttal testimony, however, this suggested change would alter the nature of the commitment by removing the Illinois component from the FTE commitment and limiting the

flexibility the WEC Energy Group will need to operate its business efficiently to seek savings by reducing potential duplication in the shared services company. Leverett Sur., JA Ex. 15.0, 14:320 – 15:324. Nevertheless, to address Mr. Lounsberry’s expressed concerns that the proposed commitment could allow deviation below the Commission-approved Gas Companies’ FTE levels, the Joint Applicants proposed an alternative commitment to maintain a minimum level of employment at the Gas Companies based upon the 2015 test year levels for which recovery was approved in their 2014 rate cases⁴ (1,356 FTEs for Peoples Gas and 177.7 FTEs for North Shore) for at least two years after the Reorganization closes.⁵ *Id.* at 16:346-354.

Regardless of which alternative is chosen by the Commission, this FTE commitment supports the Commission making the finding required by Section 7-204(b)(1) that the Reorganization will not diminish the Gas Companies’ ability to provide adequate, reliable, efficient, safe and least-cost public utility service.

Additionally, Mr. Lounsberry also proposed in his rebuttal that language be added to the FTE commitment regarding extra hiring that might be required as a result of recommendations from the Liberty final report not being counted as part of the initial FTE commitment. *See* Lounsberry Reb., ICC Staff Ex. 9.0, 20:512-515, 21:522-527. However, as Joint Applicants witness Mr. Leverett explained in his surrebuttal testimony, this issue would be better addressed by the conditions agreed upon with respect to the implementation of recommendations from the

⁴ *North Shore Gas Co., The Peoples Gas Light and Coke Co. – Proposed General Increase in Rates*, ICC Docket Nos. 14-0224/14-0225 (cons.), Order (January 21, 2015) (hereinafter referenced as “*Peoples Gas 2014 Rate Case*”).

⁵ The language of the two alternative FTE commitments proposed by the Joint Applicants appear as No. 2 on the list of commitments and conditions agreed to by the Joint Applicants as follows (JA Ex. 15.1 REV., at No. 2):

WEC Energy Group will maintain at least 1,953 full-time equivalent employment (“FTEs”) positions in the State of Illinois for two years after the Reorganization closes.

In the alternative: The Joint Applicants agree that the Gas Companies will maintain at least 1,534 FTEs for two years after the Reorganization closes.

final Liberty report, as the suggested language presupposes that any Liberty recommendation for the hiring of additional personnel must be in addition to the forecasted 2015 test year FTE levels. Leverett Sur., JA Ex. 15.0, 15:325-329. As Mr. Leveret explained, it is possible that Liberty could recommend additional hires as a replacement for existing personnel with the incorrect or inadequate skillsets, or propose eliminating certain positions to increase efficiency, leading to the recommendations as a whole providing for no net change in employment levels. *Id.* at 15:329-333. Therefore, the general conditions concerning implementation of final Liberty audit recommendations discussed above in Section III.A.2 are best suited for handling all potential recommendations, including those involving the hiring of personnel. *Id.* at 15:333-338.

* * *

Accordingly, based on the evidentiary record and the many commitments made by the Joint Applicants to ensure the maintenance of the Gas Companies' existing service levels, including commitments to continue the AMRP and implement recommended improvements to that program, make a minimum level of capital expenditures, and maintain minimum FTE levels, the Commission should find that the proposed Reorganization complies with Section 7-204(b)(1) of the Act.

B. Sections 7-204(b)(2) and (b)(3)

Section 7-204(b)(2) provides that the Commission, in approving a reorganization, must find that the proposed reorganization “will not result in the unjustified subsidization of non-utility activities by the utility or its customers.” 220 ILCS 5/7-204(b)(2). Under Section 7-204(b)(3), the Commission must find that the “costs and facilities are fairly and reasonably allocated between utility and non-utility activities in such a manner that the Commission may identify those costs and facilities which are properly included by the utility for ratemaking

purposes.” 220 ILCS 5/7-204(b)(3). Only the Joint Applicants and Staff submitted testimony regarding Sections 7-204(b)(2) and (b)(3).

The Joint Applicants have demonstrated that the proposed Reorganization meets the requirements of Sections 7-204(b)(2) and (b)(3). The Reorganization will not affect the existing relationship between Integrys’ shared services company, IBS, and the existing Integrys companies, including the Gas Companies. Lauber Dir., JA Ex. 2.0 REV., 13:285-293. At or shortly after closing, IBS will become a direct subsidiary of WEC Energy Group and be renamed WEC Business Services, LLC (“WBS”), and maintain the existing IBS affiliated interest agreements with today’s Integrys companies. *Id.* at 13:293 – 14:296. It is expected that WEC Energy Group and today’s Wisconsin Energy subsidiaries will execute interim affiliated interest agreements that will allow, but not require, these companies to take services from WBS. *Id.* at 14:306-309. The Gas Companies will not be parties to those agreements, and thus, Commission approval is not required for those agreements. *Id.* at 14:317 – 15:319.

Also, the Joint Applicants request approval of a proposed WEC Energy Group Affiliated Interest Agreement (the “WEC Energy Group AIA”) to be entered into by WEC Energy Group and all of its subsidiaries, including the Gas Companies, that is based upon the existing Integrys Affiliated Interest Agreement approved by the Commission in Docket No. 10-0408 (the “Integrys AIA” or “10-0408 AIA”). *Id.* at 15:320-323; JA Ex. 2.4. The WEC Energy Group AIA will allow services to be provided by Wisconsin Energy companies to Integrys companies, including the Gas Companies, and vice-versa, all pursuant to appropriate contractual requirements, allocation standards and compliance processes. Lauber Dir., JA Ex. 2.0 REV., 15:323-328. Because the Integrys AIA currently is the subject of an ongoing investigation

docket⁶ that may lead to changes in that agreement being agreed to by the Gas Companies and/or ordered by the Commission, Staff witness Ms. Hathhorn recommended, and the Joint Applicants agreed, that the WEC Energy Group AIA should be approved on an interim basis in this docket, to be updated after the completion of the docket investigating the Integrys AIA. *See* Hathhorn Dir., ICC Staff Ex. 6.0, 5:108 – 7:146; Lauber Reb., JA Ex. 7.0, 10:215 – 11:242; Hathhorn Reb., ICC Staff Ex. 12.0, 5:111 – 6:127; Lauber Sur., JA Ex. 16.0, 6:120-132.

Further, with respect to issues of non-utility subsidization and allocation, the record evidence demonstrates that after the Reorganization, non-utility operations will represent a very low percentage of WEC Energy Group's revenue (1.46%), EBIT (0.09%), assets (1.21%), and operating cash flow (0.47%), and proportionally less than currently exists within the Integrys holding company system.⁷ Lauber Supp. Dir., JA Ex. 5.0, 4:91 – 6:105.

The record evidence demonstrates that the proposed Reorganization meets the requirements of Sections 7-204(b)(2) and (b)(3) because it will not materially change the contractual arrangements in place with respect to the Gas Companies that, where appropriate, have been reviewed and approved by the Commission to ensure that there will not be unjustified subsidization of non-utility activities by the Gas Companies or their customers, as well as that the allocation of costs and facilities will be done in a manner that will allow the Commission to properly identify them for ratemaking purposes. Lauber Dir., JA Ex. 2.0 REV., 15:340 – 16:345.

Staff witness Ms. Hathhorn recommended that the Commission approve the Reorganization as to Sections 7-204(b)(2) and (b)(3), subject to the following three conditions:

⁶ Docket Nos. 12-0273/13-0612 (cons.).

⁷ The percentages provided are based upon the application of definitions and calculations provided by Wisconsin's public utility holding company statute, Wis. Stat. § 196.795, pursuant to which Wisconsin Energy's Elm Road Generating Station and Port Washington generating units and ownership interest in ATC are excluded from being considered nonutility affiliates. *See* Staff Group Cross Ex. 1 at 3-4.

1. Joint Applicants must provide the Manager of the Commission's Accounting Department and file on the ICC's e-Docket system in Docket No. 14-0496, a copy of the signed, executed Interim WEC Energy Group Affiliate Interest Agreement ("Interim Agreement") that is being approved by the Commission in this proceeding, within 60 days after the date of the transaction.
2. The Joint Applicants must provide to the Manager of the Commission's Accounting Department and file on the ICC's e-Docket system in Docket No. 14-0496 a copy of the signed, executed Final Agreement pursuant to the Commission order in Docket Nos. 12-0273/13-0612 (Cons.) if there are any changes between the Interim Agreement and a Final Agreement.
3. The Gas Companies must supplement the information provided annually in their Form 21 ILCCs to the Commission with the following information on page 47 of ILCC Form 21, beginning with the 2014 information to be submitted by March 31, 2015:
 - Column A – A breakdown of affiliated transactions by functional area grouped by direct billed versus allocated costs
 - Column B – Name of associated/affiliated company providing or receiving the service
 - Column C – Account that charges from associated/affiliated company are booked if the costs would have originated at the utility
 - Column D – Amount for the year
 - Column E – Docket number and regulatory authority approving the transaction
 - Column F – Footnote referencing the applicable exhibits from the affiliated interest agreements

Hathhorn Dir., ICC Staff Ex. 6.0, 7:148-163, 9:188-209; Hathhorn Reb., ICC Staff Ex. 12.0, 7:155 – 8:193. The Joint Applicants have accepted each of these conditions, as further clarified through rebuttal and surrebuttal testimony. Lauber Reb., JA Ex. 7.0, 10:215 – 11:250; Lauber Sur., JA Ex. 16.0, 6:120-137.

Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Sections 7-204(b)(2) and (b)(3) of the Act.

C. Section 7-204(b)(4)

Section 7-204(b)(4) provides that the Commission must find that "the proposed reorganization will not significantly impair the utility's ability to raise necessary capital on reasonable terms or to maintain a reasonable capital structure." 220 ILCS 5/7-204(b)(4).

The evidence demonstrates that the Joint Applicants have met this requirement. After the Reorganization, the Gas Companies will be able to continue funding their operations and raise capital on the same basis as before the Reorganization. Lauber Supp. Dir., JA Ex. 5.0, 11:205-209; McNally Dir., ICC Staff Ex. 7.0, 3:61 – 4:69. After the announcement of the proposed Reorganization, the Credit Rating Agencies reaffirmed the current credit ratings for Wisconsin Energy, Integrys, and their operating utility subsidiaries, including the Gas Companies. Lauber Supp. Dir., JA Ex. 5.0, 9:169 – 11:199; Reed Dir., JA Ex. 3.0, 24:479-481. Indeed, it is anticipated that in the long-term, the Gas Companies may have an enhanced access to capital as a result of the Reorganization. Lauber Supp. Dir., JA Ex. 5.0, 11:202-204; Reed Dir., JA Ex. 3.0, 28:571 – 29:589; Reed Reb., JA Ex. 8.0, 6:125 – 7:132, 10:188 – 11:217; Reed Tr., 409:14 – 410:12, 417:3 – 418:9. And the post-merger capital structures targeted for Peoples Gas and North Shore are the same as those approved by the Commission in their recent rate cases, Docket Nos. 14-0224/14-0225 (cons.). Lauber Supp. Dir., JA Ex. 5.0, 9:164-168. WEC Energy Group will work to maintain those approved capital structures, through equity contributions from the parent company if necessary. Lauber Tr., 448:10 – 450:2.

Examining the evidence, Staff witness Michael McNally agreed that after the Reorganization, the Gas Companies would continue to have the ability to raise necessary capital on reasonable terms. *See* McNally Dir., ICC Staff Ex. 7.0, 3:60 – 8:173. Accordingly, Mr. McNally concluded that the proposed Reorganization will satisfy the requirements of Section 7-204(b)(4) of the Act. *Id.* at 17:390-391.

Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Section 7-204(b)(4) of the Act.

D. Section 7-204(b)(5)

Section 7-204(b)(5) provides that the Commission must find that “the utility will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities.”

Joint Applicants witness Allen Leverett, President of Wisconsin Energy, testified that under the proposed Reorganization, the Gas Companies will remain separate Illinois public utilities regulated by the Commission and remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities. Leverett Dir., JA Ex. 1.0, 16:343-345. Staff witness Mr. Stoller testified that this evidence demonstrates that the Joint Applicants meet the requirements of Section 7-204(b)(5). Stoller Dir., ICC Staff Ex. 1.0, 7:136 – 8:149. No other party submitted testimony regarding Section 7-204(b)(5).

Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Section 7-204(b)(5) of the Act.

E. Section 7-204(b)(6)

Section 7-204(b)(6) provides that the Commission must find that “the proposed reorganization is not likely to have a significant adverse effect on competition in those markets over which the Commission has jurisdiction.” 220 ILCS 5/7-204(b)(6).

Joint Applicants’ witness Mr. Schott testified that the Reorganization is not likely to have any significant adverse effect on competition in the markets over which the Commission has jurisdiction. Schott Dir., JA Ex. 4.0 REV., 9:184-189. As Mr. Schott testified, the Reorganization will cause no changes to the Gas Companies’ tariffs or programs offering retail choice to their customers. *Id.*, at 9:189 – 10:220. Moreover, in response to concerns raised by intervenor Retail Energy Supply Association (“RESA”), the Joint Applicants have committed to maintain the Gas Companies’ existing large and small volume transportation programs in

substantially the same form as they exist now for at least two years after the close of the Reorganization, to reinstate intraday nomination rights in Rider P of their rate schedules, and to discuss additional matters of interest with RESA post-merger.⁸ *See* Lauber Reb., JA Ex. 7.0, 27:593 – 29:646; JA Ex. 15.1 REV., at Nos. 42-44.

Staff witness David Sackett recommended that the Commission find, as required by Section 7-204(b)(6), that the proposed Reorganization is not likely to have a significant adverse effect on competition in those markets over which the Commission has jurisdiction. Sackett Dir., ICC Staff Ex. 4.0, 9:158-167.

Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Section 7-204(b)(6) of the Act.

F. Section 7-204(b)(7)

Section 7-204(b)(7) provides that the Commission must find that “the proposed reorganization is not likely to result in any adverse rate impacts on retail customers.” 220 ILCS 5/7-204(b)(7). The evidentiary record in this proceeding demonstrates that the proposed Reorganization meets the requirements of Section 7-204(b)(7).

The Joint Applicants have committed that they will not seek to recover any portion of the “acquisition premium” Wisconsin Energy is paying to acquire Integrys in the Reorganization in the Gas Companies’ base rates, nor the amortization of the premium in future cost of service determinations. Leverett Dir., JA Ex. 1.0, 22:466-474; Reed Dir., JA Ex. 3.0, 7:129-131. Nor will the Joint Applicants seek the recovery of any “Transaction Costs” incurred in connection

⁸ The Joint Applicants and RESA have been in the process of negotiating a settlement agreement that will address all of the issues raised by RESA in this proceeding. While the agreement has not been finalized and executed as of the time this brief was filed, the Joint Applicants and RESA anticipate the execution of the settlement agreement before the filing of reply briefs in this matter. The Joint Applicants will update the Commission as to the status of this anticipated settlement in their reply brief.

with the execution of the Reorganization.⁹ Leverett Dir., JA Ex. 1.0, 22:475-480; Lauber Dir., JA Ex. 2.0 REV., 11:238-240; Lauber Reb., JA Ex. 7.0, 19:398-408; Reed Dir., JA Ex. 3.0, 7:132-135. Further, the Reorganization will not cause any near-term increases in base rates, as the Joint Applicants have committed that they will not to seek any change in the base rates set by the Commission for the Gas Companies in the final Order of their recent rate cases issued on January 21, 2015, as modified by the Commission's February 11, 2015 Second Amendatory Order in that proceeding, to be effective any earlier than two years after the Reorganization is closed. Leverett Dir., JA Ex. 1.0, 21:446-464; Reed Dir., JA Ex. 3.0, 8:154-161. In the long-term, 5 to 10 years after the close of the Reorganization, the Joint Applicants anticipate that the Reorganization will generate 3% to 5% net savings in non-fuel O&M costs compared to what the Gas Companies' non-fuel O&M costs would have been absent the Reorganization. Reed Dir., JA Ex. 3.0, 32:665 – 39:780. There also could be long-term reductions in the Gas Companies' debt costs as the Reorganization may enhance the Gas Companies' access to capital. *See* Lauber Supp. Dir., JA Ex. 5.0, 11:202-205; Reed Dir., JA Ex. 3.0, 28:576 – 29:589; City Group Cross Ex. 1 at 6 (JA response to data request City 2.21 sub. (b)(iv)).

Additionally, Staff witness Mr. McNally recommended several conditions to mitigate against the potential effects that a credit downgrade of Wisconsin Energy might have (*i.e.*, increased debt costs) if such a downgrade were to occur after the close of the Reorganization. *See* McNally Dir., ICC Staff Ex. 7.0, 10:229 – 12:258. As modified and clarified through rebuttal and surrebuttal testimony, and data request responses, the Joint Applicants have agreed to the conditions recommended by Mr. McNally:

⁹ "Transaction Costs" are the costs associated with executing the transaction at issue, such as banker's fees, legal fees, or severance costs incurred as a result of the transaction (*i.e.*, executive change-in-control payments as identified in an SEC Form S-4). Lauber Reb., JA Ex. 7.0, 19:405-408.

1. Peoples Gas and North Shore are to maintain separate credit facilities to the extent they existed prior to the entry of the final Order in this proceeding approving the Reorganization, not accessible to nor influenced by non-utility affiliates.
2. The Gas Companies shall be prohibited from lending to non-utility affiliates under Section 7-101 of the Act or 83 Illinois Administrative Code Part 340.
3. The Gas Companies shall be prohibited from guaranteeing any obligations of their non-utility affiliates.
4. The WEC Energy Group shall file with the Commission, within 90 days after the closing of the Reorganization, a report detailing the debt held at the WEC Energy Group holding company and Integrys sub-holding company levels, its relationship to total holding company debt and any company plans to reduce the debt, along with WEC Energy Group's proportion of non-regulated operations in terms of total investment, revenues, and operating income, with updated reports to be filed annually until the Joint Applicants petition the Commission and receive approval to cease such reporting requirements.
5. Peoples Gas and North Shore shall present a detailed study within six months after the close of the Reorganization showing the costs and savings of U.S. Securities Exchange Commission registration compared to remaining unregistered.
6. All credit reports and bulletins published by credit rating agencies specific to the Gas Companies and WEC Energy Group shall be filed with the Commission in this docket within 10 business days after being published, and in a manner consistent with the requirements for publication imposed by the copyright holders.

Lauber Reb., JA Ex. 7.0, 13:267 – 17:376; McNally Reb., ICC Staff Ex. 13.0, 2:20 – 5:11, 6:123-134; Lauber Sur., JA Ex. 16.0, 7:143 – 9:208; ICC Staff Group Cross Ex. 1.

The evidence demonstrates that based upon the commitments made and the conditions agreed to by the Joint Applicants – including all of those recommended by Staff witness Mr. McNally – the Reorganization will have no adverse rate impacts on the Gas Companies' customers. Indeed, the evidence shows that the Reorganization is likely to have the long-term positive rate impacts of net savings in non-fuel O&M and reduced debt costs due to enhanced

access to capital. Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Section 7-204(b)(7) of the Act.

G. Section 7-204(c)

Section 7-204(c) requires the Commission to rule on (a) the allocation of any savings resulting from the proposed reorganization; and (b) whether the companies should be allowed to recover any costs incurred in accomplishing the proposed reorganization and, if so, the amount of costs eligible for recovery and how the costs will be allocated. 220 ILCS 5/7-204(c). The record evidence fully supports the required findings.

With respect to savings, the evidence demonstrates that there are no immediate cost savings that will result from the Reorganization. Lauber Dir., JA Ex. 2.0 REV., 12:252-260; Reed Dir., JA Ex. 3.0, 33:671 – 34:696. Net savings in non-fuel O&M are not expected to occur until 5 to 10 years after the Reorganization, and then those net savings achieved in the future will flow through to ratepayers in future rate cases. Lauber Dir., JA Ex. 2.0 REV., 12:260 – 13:276; Lauber Reb., JA 7.0, 19:398-416; Reed Dir., JA Ex. 3.0, 46:940-955.

With respect to costs of the Reorganization, the Joint Applicants have committed that they will not seek recovery of costs incurred to accomplish the Reorganization – *i.e.*, Transaction Costs – from customers, and that they will not seek recovery in base rates of the acquisition premium paid as part of the Reorganization, nor the amortization of the premium in future cost of service determinations. Leverett Dir., JA Ex. 1.0, 22:466-480; Reed Dir., JA Ex. 3.0, 7:129-135; Lauber Dir., JA Ex. 2.0 REV., 11:238-240; Lauber Reb., JA Ex. 7.0, 19:398-408. Further, the Joint Applicants have agreed that they may recover “Transition Costs” only to the extent that they produce savings, and then only those Transition Costs that are incurred in a rate case test

year.¹⁰ Lauber Reb., JA Ex. 7.0, 19:408-413; Reed Reb., JA Ex. 8.0, 18:354-369; Reed Tr., 403:11-18. Any Transition Costs incurred prior to the first rate cases after the Reorganization is closed, therefore, will not be recoverable from customers. Reed Tr., 404:19 – 407:7.

Staff witness Daniel Kahle reviewed the evidence and concluded that the proposed Reorganization meets the requirements of Section 7-204(c). Kahle Dir., ICC Staff Ex. 5.0, 2:40 – 3:49. Mr. Kahle further recommended that the Commission include several conditions or directives in its Order concerning the treatment of costs and savings:

1. In future rate cases, the Gas Companies shall identify all transaction costs included in the test period that result from accomplishing the Reorganization and demonstrate that such costs are not included in the rate case for recovery.
2. The Gas Companies shall separately identify and track transaction costs and transition costs.
3. Any accounting entries made to the books of the Gas Companies for push-down accounting related to the Reorganization shall be disregarded for ratemaking and regulatory reporting purposes.¹¹
4. Allocation of any savings resulting from the proposed reorganization shall flow through to ratepayers.
5. Transaction costs incurred in accomplishing the proposed Reorganization shall not be recoverable from ratepayers.¹²
6. Transition costs may be recoverable to the extent the transition costs produce savings.

¹⁰ “Transition Costs” are costs incurred after the close of the Reorganization to achieve long-term efficiencies and savings, and which may be recoverable to the extent they produce savings. Lauber Reb., JA Ex. 7.0, 19:408-410.

¹¹ Because of changes made by the Financial Accounting Standards Board (“FASB”) and the Securities Exchange Commission (“SEC”) in November 2014, an exception from the SEC to push-down accounting is no longer required. Lauber Reb., JA Ex. 7.0, 22:469-478; Kahle Reb., ICC Staff Ex. 11.0, 4:73-85. Accordingly, the Joint Applicants will not follow push-down accounting for the Gas Companies, and the Gas Companies’ books and records will be carried over at historical cost after the Reorganization. Lauber Reb., JA Ex. 7.0, 22:478-480.

¹² Further, the Joint Applicants agreed to a clarifying commitment in response to City/CUB witness Michael Gorman concerning the treatment of severance payments:

The Gas Companies will not seek recovery of any severance costs that are transaction costs because they are incurred as part of accomplishing the Transaction (*i.e.*, executive change-in-control payments identified in SEC Form S-4).

Lauber Reb., JA Ex. 7.0, 20:434 – 21:443; JA Ex. 15.1 REV., at No. 41.

Kahle Reb., ICC Staff Ex. 11.0, 5:87 – 6:113. The Joint Applicants have agreed to each of these conditions. Lauber Sur., JA Ex. 16.0, 9:210 – 11:248; JA Ex. 15.1 REV., at Nos. 16-21. Based on the adoption of these conditions, Mr. Kahle recommends that the Commission find that the proposed Reorganization complies with Section 7-204(c) of the Act. Kahle Reb., ICC Staff Ex. 11.0, 6:101-102.

Accordingly, based on the evidentiary record, the Commission should find that the proposed Reorganization complies with Section 7-204(c) of the Act.

IV. THE COMMISSION SHOULD DENY ADDITIONAL CONDITIONS SOUGHT BY THE AG AND CITY/CUB

At the first instance, this Commission should reject the additional conditions sought by the AG and City/CUB because they are not related to any of the findings required under Section 7-204. The AG and City/CUB have not clearly tied their requests to any of the particular findings that the Commission is required to make in order to approve a proposed reorganization under Section 7-204. Rather, the intervenors AG and City/CUB have asserted that the Commission should impose a laundry list of additional conditions unrelated to Section 7-204. As explained above, Section 7-204 does not require that a proposed reorganization improve a utility's existing service levels for the Commission to approve it, and focuses the Commission's determination on whether the reorganization, if approved, would adversely affect customers or diminish service quality. *See AGL Resources Inc., Nicor Inc., et al.*, ICC Docket No. 11-0046 (Dec. 7, 2011) Order at 13 ("The intention of the statute is to sustain the utility's service quality status quo, not to achieve quality improvements."); *In re GTE Corp. and Bell Atlantic Corp.*, ICC Docket No. 98-0866, 1999 Ill. PUC Lexis 825 at *28 (Oct. 29, 1999) ("At the outset, it must be noted that the standard contained in the statute requires the Commission to evaluate whether the impact of the proposed reorganization will be to diminish service quality, not whether the

proposed merger will enhance service quality.”) For the reasons explained below, these additional conditions requested by the AG and/or City/CUB are not necessary to prevent the Reorganization from having any adverse impact on the Gas Companies or service quality – indeed most are unrelated to the Reorganization at all – and thus should be denied by the Commission.

A. AMRP-related Proposals

Witnesses for both the AG (Mr. Sebastian Coppola) and City/CUB (Mr. William Cheaks, Jr.) propose several conditions that would require additional reporting and development of work plans and schedules for the AMRP, as well as require improvements to Peoples Gas’ performance in a variety of operational categories.

AG witness Mr. Coppola requests conditions that would require annual reporting of actual versus forecasted investments and benefits realized from the AMRP to date, presentation of detailed annual work plans with Main Ranking Index and cost information, along with corrective action and implementation plans for improved coordination with the City and recommendations from the Liberty final report. Coppola Reb., AG Ex. 4.0, 35:683 – 36:699. Mr. Coppola also proposes a condition that would require an evaluation of the AMRP and “scaling” of the program to a level that is “manageable,” targets high-priority, high-risk segments, is cost-effective, and minimizes the impact of the AMRP on customer rates. *Id.* at 35:676-682.

City/CUB witness Mr. Cheaks also proposes three AMRP-related conditions: (1) require Peoples Gas to produce weekly, block-by-block schedules of construction activities on a five-year, annual, and monthly basis; (2) require Field Order Authorizations (“FOAs”) or Change Orders to be communicated within 24 hours of approval to the Chicago Department of Transportation; and (3) require Peoples Gas to improve its performance in six operational

categories (adherence to schedule, adherence to budget, change order spending and communication, management reserve spending and budgeting, time to close FOAs and Change Orders, and contractor hits on facilities) with financial penalties for failing to improve. Cheaks Reb., City/CUB Ex. 7.0, 2:13-17, 2:21 – 3:31.

Each of these proposed conditions suffers from the same two fatal flaws with respect to their relevance to the Commission's determination of whether to approve Wisconsin Energy's acquisition of Peoples Gas' parent company Integrys pursuant to Section 7-204. First, each of the requested conditions addresses an existing or ongoing issue with Peoples Gas' AMRP that is unrelated to Wisconsin Energy or the proposed Reorganization. Leverett Sur., JA Ex. 15.0, 9:201 – 10:206. In other words, none of these requested conditions addresses or seeks to protect Peoples Gas or its customers from an identified adverse impact or diminishment of service that would be caused by the Reorganization. Rather, these conditions seek to enhance or fix perceived problems with the existing AMRP and operational performance. *See, e.g.*, Coppola Dir., AG Ex. 2.0, 34:680-681 (recommending that approval of the proposed Reorganization be conditioned on "improving the current operation of the AMRP"). This leads to the second flaw: imposing these conditions to improve or "fix" the AMRP would be contrary to the intent of Section 7-204, which is to sustain the utility's service quality status quo, not to achieve quality improvements. *AGL Resources Inc., Nicor Inc., et al.*, ICC Docket No. 11-0046 (Dec. 7, 2011) Order at 13.

As the Joint Applicants have explained in their testimony and other briefing, and as reflected in their agreed conditions regarding the implementation of recommendations from Liberty's final report, it is not and has never been the position of the Joint Applicants that the AMRP should proceed "as is" if the current approaches are problematic or could be improved.

Leverett Sur., JA Ex. 15.0, 10:219 – 11:232. However, given the scope and purpose of Section 7-204, this proceeding is not the proper forum for investigating, evaluating, and implementing fixes to Peoples Gas’ existing operations, including the AMRP. Indeed, as acknowledged by Messrs. Coppola and Cheaks, the ongoing Liberty investigation ordered by the Commission and its recommendations will address the same issues as their proposed conditions. *See* Coppola Supp., AG Ex. 5.0, 11:231-239; Cheaks Supp., City/CUB Ex. 9.0, 5:81, 8:138-143. Thus, it is in the context of the process established by the Commission for Liberty’s investigation and implementation of its recommendations that these issues should be addressed, not here in a Section 7-204 proceeding while Liberty’s investigation remains ongoing.¹³ Indeed, because, as Staff witness Mr. Stoller states in his rebuttal testimony, Liberty’s interim findings are preliminary and subject to change (*see* ICC Staff Ex. 8.0, at 10:176-180), it may be that the particular conditions proposed by the AG and City/CUB now could conflict and/or interfere with the final recommendations that Liberty will make in its final report.

The Joint Applicants also have addressed specific problems with the requested conditions themselves. Joint Applicants’ witnesses Mr. Schott and Mr. Giesler explained in their testimony that the additional reporting requested by Messrs. Coppola and Cheaks is either redundant of existing AMRP reporting requirements, or would add little value to the massive amounts of information that Peoples Gas already provides to the Commission regarding AMRP, and the information already being provided to the City. Schott Reb., JA Ex. 9.0 REV., 5:106 – 7:137; Schott Sur., JA Ex. 18.0, 4:81 – 5:100; Giesler Reb., JA Ex. 10.0, 7:145 – 9:179; Giesler Tr., 305:21 – 306:22. Mr. Coppola’s suggested evaluation and scaling of the AMRP with a focus

¹³ In response to the Liberty Interim Report, Mr. Cheaks also requested that the Joint Applicants be ordered to provide a work plan and report to the City specifically addressing Liberty’s recommendations with timelines for when each recommendation would be addressed, by December 1, 2015. Cheaks Supp., City/CUB Ex. 9.0, 8:138-143. Imposing such a condition would further interfere with the established verification process established for implementing Liberty’s final recommendations in the Commission’s *Peoples Gas 2012 Rate Case Order*.

only on “high risk segments” of pipe would lead to inefficiencies and duplication of effort in the project. Giesler Reb., JA Ex. 10., 4:78 – 5:95. Mr. Cheaks’ requested condition on the production of FOAs and Change Orders within 24 hours of their approval to the Chicago Department of Transportation (“CDOT”) would create unnecessary burdens, and likely would conflict with confidentiality restrictions contractually imposed on Peoples Gas by its contractors. Giesler Sur., JA Ex. 19.0, 5:89-103. And, Mr. Cheaks’ proposal for a Commission monitoring program for six specific operational areas with financial penalties for failure to show improvements is duplicative of the monitoring, auditability and transparency that already exists for the AMRP. Schott Reb., JA Ex. 9.0 REV., 7:146 – 8:163; Giesler Reb., JA Ex. 10.0, 9:194 – 11:239; Giesler Sur., JA Ex. 19.0, 5:104 – 7:139. Thus, the AMRP-related conditions requested by Messrs. Coppola and Cheaks should be denied by the Commission for these reasons, as well.

B. Participation in dotMaps Website

City/CUB witness Mr. Cheaks also recommended a condition that would require the Joint Applicants to participate in CDOT’s dotMaps website to improve collaboration with other occupants of the Public Way. Cheaks Dir., City/CUB Ex. 3.0, 4:59-61. As with the AMRP-related proposals discussed in subsection A, above, this proposal concerning participation in the dotMaps website suffers from the same two flaws. This proposal has no relation to Wisconsin Energy’s acquisition of Integrys, addresses a pre-existing City request of Peoples Gas that is not related to the Reorganization, and is another effort to impose an enhancement to the utility’s operations that is contrary to the intent of Section 7-204. Moreover, the Joint Applicants have identified specific concerns which Peoples Gas has previously communicated to the City regarding Integrys and Gas Companies computer systems being incompatible with the Google-based dotMaps website, and customer privacy and data security concerns that putting information into dotMaps would entail. Leverett Reb., Ex. 6.0, 22:579-589; City Group Cross

Ex. 1 at 15-16 (JA responses to data requests City 10.43 and City 10.44). Accordingly, the Commission should reject the condition as proposed by Mr. Cheaks. However, the Joint Applicants agree to continue working with the City to determine whether and to what extent it is possible for the Gas Companies to participate in the dotMaps website, and have proposed a commitment on this issue. Leverett Reb., Ex. 6.0, 22:589-591; Leverett Sur., JA Ex. 15.0, 13:275-286; JA Ex. 15.1 REV., at No. 40.

C. Future Rate Treatment of Degradation Fees

In his rebuttal testimony, AG witness Mr. Coppola proposed a condition that would require Peoples Gas to exclude from base rates and Rider QIP surcharges any “excessive street degradation fees found to be unreasonable and imprudently incurred.” Coppola Reb., AG Ex. 4.0, 36:700-702. Again, as with the AMRP-related proposals discussed in subsection A above, this proposed condition is unrelated to the proposed Reorganization or any impact that the merger may have on the Gas Companies or their customers. Mr. Coppola fails to establish, or even suggest, how the Reorganization would result in any degradation fees being imposed on the Gas Companies by the City. Moreover, such a condition is completely unnecessary, as the reasonableness and prudence of any street degradation fees that the City charges Peoples Gas for work in the public way are already subject to examination by the Commission in any rate case or Rider QIP proceeding in which their recovery is an issue. Leverett Sur., JA Ex. 15.0, 12:262 – 13:274. Thus, the Commission should deny this requested condition, as well.

D. Energy Efficiency-related Proposals

City/CUB witness Karen Weigert also proposed five conditions related to energy efficiency¹⁴ which are not related to Section 7-204: (1) requiring a contribution of \$10 million in

¹⁴ Ms. Weigert had proposed an additional condition requesting no change in the fixed portions of the Gas Companies’ rates for the duration of the period in which they agreed not to seek an increase in rates in response to

Joint Applicants' shareholder funds for energy efficiency programming over and above what is required by law under Section 8-104 of the Act; (2) prepare and issue a public report examining the costs and benefits of implementing energy efficiency through a third party rather than through the utilities; (3) create, maintain and offer an electronically accessible energy usage database for aggregated, building-level energy use, similar to Commonwealth Edison Company's EUDS; (4) work with the City and academic researchers to create an updatable database of actual usage patterns for the Gas Companies' customers; and (5) change the Gas Companies' credit standards for On Bill Financing programs to open the program to more customers and to fund a greater number of measures through the programs. Weigert Dir., City/CUB Ex. 2.0, 3:35 – 4:53.

Again, as with the other proposed conditions from the AG and City/CUB discussed above, there is no relation between the acquisition of Integrys by Wisconsin Energy and the need for Joint Applicants to provide additional energy efficiency funding and programs, and requiring improvements in these programs is beyond the scope of Section 7-204. The Gas Companies presently are in compliance with the energy efficiency requirements of Section 8-104 of the Act, and no witness has suggested otherwise in any testimony. Schott Reb., JA Ex. 9.0 REV., 9:177 – 11:218; Schott Sur., JA Ex. 18.0, 7:147-150; Leverett Sur., JA Ex. 15.0, 24:532-536. The Joint Applicants have no plans to change the Gas Companies' energy efficiency programs. Regardless of their ultimate owner, the Gas Companies will be bound to both follow the statutory requirements of Section 8-104 of the Act and the Commission's final Orders approving their energy efficiency plans. Schott Reb., JA Ex. 9.0 REV., 11:232 – 12:240.

the Joint Applicants' reservation of their rights to seek a revenue neutral change in their rate design if the Supreme Court of Illinois ruled that their Rider VBA decoupling riders were illegal. *See* Weigert Dir., City/CUB Ex. 2.0, 3:42-43. However, this issue is moot because the Supreme Court of Illinois issued an opinion on January 23, 2015 affirming the Commission's authorization of Rider VBA for the Gas Companies. Leverett Sur., JA Ex. 15.0, 21:474 – 22:488.

The City/CUB requests are beyond the scope of Section 7-204. That Section of the Act does not contain any requirements concerning energy efficiency or suggestions that the Commission should consider energy efficiency issues in evaluating a proposed reorganization. *Leverett Reb.*, JA Ex. 6.0, 38:939-941. Moreover, there is no evidence in the record that the Reorganization would adversely affect the energy efficiency interests of the Gas Companies or their customers, or that Ms. Weigert's conditions are necessary to protect such interests. *Leverett Sur.*, JA Ex. 15.0, 24:538-541. For these reasons alone, the Commission should deny City/CUB's proposed energy efficiency conditions.

Furthermore, the record evidence contains additional specific reasons for denying these proposed conditions. With respect to the request for an additional \$10 million in shareholder funding for additional energy efficiency programming, this proposal would be contrary to the comprehensive statutory requirements in Section 8-104 of the Act for gas utility energy efficiency programs, and it likely would create a situation where the statutory program and the "extra-statutory" program sought by Ms. Weigert would compete or conflict with each other. *Schott Sur.*, JA 18.0, 6:131 – 7:144. Also, while Ms. Weigert relies on the fact that there was a voluntary agreement by utilities in the reorganization that created Integrys in Docket No. 06-0540 to implement and fund an energy efficiency program, Ms Weigert ignores the fact that at that time, neither Section 8-104 nor any other state-mandated energy efficiency programs existed. *Id.*, at 7:151 – 8:166. Also, the energy efficiency program that resulted from Docket 06-0540 did allow cost recovery pursuant to a rider mechanism. *Id.*; *Leverett Reb.*, JA Ex. 6.0, 39:954-956.

Regarding Ms. Weigert's request for the Gas Companies' On Bill Financing programs to be expanded, Peoples Gas is expanding the range of weatherization measures that will be eligible

for On Bill Financing. Schott Reb., JA Ex. 9.0 REV., 14:293-302. However, contrary to Ms. Weigert's request, Peoples Gas cannot unilaterally expand the program to allow customers with lower credit scores to participate because the credit requirements for the program are contractual in nature and set by third-party financiers not under Peoples Gas' control (or the Commission's jurisdiction). Leverett Reb., JA Ex. 6.0, 40:988-998. The credit score to be applied by the financier when it assesses loan requests is stated in the contract, and the financier has a statutory obligation to conduct credit checks or undertake other appropriate measures to limit credit risk. Schott Sur., JA Ex. 18.0, 8:177 – 9:183. Further, if higher risk customers are allowed to use On Bill Financing, Peoples Gas' other customers ultimately may have to pay more through increased amounts under Peoples Gas' uncollectible expense rider. *Id.* at 9:183-185. Also, while Peoples Gas could terminate its contract with its current financier, there is no guaranty that a new entity would be willing to negotiate terms allowing for lower credit scores to be accepted. *Id.* at 9:186-188.

With respect to Ms. Weigert's proposed condition requesting the development of a study regarding the potential costs and benefits of a third-party administrator, this request is based upon an incorrect factual assumption that the Gas Companies have an incentive to deliver more natural gas. The Gas Companies have full, symmetrical decoupling in place through Rider VBA and thus do not have any throughput incentive to reduce their energy efficiency goals. Leverett Reb., JA Ex. 6.0, 39:966-975; Schott Reb., JA Ex. 9.0 REV., 13:264-270. Moreover, such a study would be applicable to all gas utilities, not just the Gas Companies, so requiring them to incur the expense and burden of developing the report would be unfair. *Id.* at 39:976 – 40:978. Also, it is significant that the Illinois statutory scheme requires the involvement of the natural gas utility, so the report would be of questionable value, and third-party vendors are already being

used to design and implement Peoples Gas' energy efficiency programs. Schott Reb., JA Ex. 9.0 REV., 12:244 – 13:263.

Finally, the proposed conditions to require the development of an energy usage database for use in helping building owners comply with the City's energy "benchmarking" ordinance and to work with the City and researchers to create a database of the customers' usage patterns not only would be burdensome on Peoples Gas, requiring a significant investment of IT resources, but is unnecessary because Peoples Gas already makes the necessary information available to building owners and managers. Leverett Reb., JA Ex. 6.0, 40:979-987; Schott Reb., JA Ex. 9.0 REV., 13:271 – 14:292. Peoples Gas continues to explore ways to assist building owners and managers in complying with the requirements of the City's benchmarking ordinance, but it is the building owners and managers who have the obligations under this ordinance. Schott Sur., JA Ex. 18.0, 8:167-173.

Accordingly, in addition to being unrelated to the proposed Reorganization and beyond the scope and intention of Section 7-204, the Commission should deny Ms. Weigert's proposed conditions for these reasons, as well.

E. Riders to "Correct" Previously-Set Rates

AG witness David Effron proposes that the Commission impose two rider mechanisms – one for the cost of FTEs and the other for costs for the Integrys Customer Experience ("ICE") project (Integrys' customer information system) – that would require the Gas Companies to return to customers the difference between cost recovery that was approved in the *Peoples Gas 2014 Rate Case*, and what Mr. Effron argues are the lower, actual costs for these items. See Effron Dir., AG Ex. 1.0, 19:433 – 20:457. With respect to the ICE project costs, the Commission addressed and rejected Mr. Effron's arguments concerning the appropriate level of cost recovery for this item in its January 21, 2015 final Order in those rate cases. Schott Sur., JA

Ex. 18.0, 9:190-198. Mr. Effron’s testimony and proposal in this proceeding is an effort to take “another bite” at this apple that the Commission already has denied. Further, singling out FTE and ICE costs (and savings) for such treatment, while ignoring other specific cost items that have increased, such as City paving, restoration and permitting costs, is unsound and unfair. Schott Reb., JA Ex. 9.0 REV., 19:406-412, 24:525-530.

Moreover, even assuming that Mr. Effron is correct that the rates set by the Commission for FTEs and ICE costs are higher than what those costs actually turn out to be – a position which the Joint Applicants dispute and have submitted testimony demonstrating it to be unfounded¹⁵ – for the Commission to take such action to “fix” the rates it set by imposing riders that would refund those differences to customers would be a violation of the legal rule prohibiting retroactive ratemaking. *See Bus. and Prof. People for the Pub. Interest v. Illinois Commerce Comm’n*, 136 Ill. 2d 192, 205, 229-239 (1989) (holding that Commission order allowing it to issue a refund if it determined that a utility earned excess revenue constituted retroactive ratemaking because it required the Commission to make an active, after-the-fact determination that the rates it entered in a previous order were too high). Staff likewise does not support these riders for legal reasons. *See Hathhorn Reb.*, ICC Staff Ex. 12.0, 6:140 – 7:152.

Accordingly, the Commission should deny the two conditions proposed by Mr. Effron.

F. Board Composition

While the Joint Applicants have voluntarily agreed to have a minimum of one WEC Energy Group Board member be a resident of Illinois similar to what was included in the approval of the AGL-Nicor Gas merger (Leverett Dir., JA Ex. 1.0, 23:503 – 24:512), City/CUB witness Christopher Wheat requests that the Commission impose a condition requiring that for

¹⁵ *See* Leverett Reb., JA Ex. 6.0, 23:609 – 27:697 (regarding FTE levels); Schott Reb., JA Ex. 9.0 REV., 20:430 – 24:515 (regarding ICE costs).

five years the WEC Energy Group Board maintain the same proportion of Illinois members as currently exist on Integrys' Board. Wheat Dir., City/CUB Ex. 1.0, 3:37-39. This would be an unprecedented intrusion by the Commission into the control of a holding company's management, as the selection of board members typically is a matter voted upon by the shareholders of the company. The City/CUB witnesses fail to explain or present evidence why a condition similar to what was found to be sufficient for the AGL-Nicor merger would not be sufficient here.

Moreover, as explained in the testimony of Mr. Leverett, it is unnecessary for the protection of the Gas Companies or their customers from the Reorganization causing them any adverse impact. It is not uncommon for the parent company of a utility to be located in a different state, and the residency of its board members or location of its headquarters has no impact of the company's focus on making sure each of its utilities provide high-quality service to their service territories. Leverett Reb., JA Ex. 6.0, 10:293 – 11:309. The residency of a utility holding company's board members is not predictive of whether or not the interests of the utility's customers will be protected, and this is especially true in a situation like the present case where the Gas Companies will maintain local headquarters and have local management running the day-to-day operations of the utilities. Leverett Sur., JA Ex. 15.0, 19:433 – 20:437.

Accordingly, the Commission should deny City/CUB's request for a condition requiring additional WEC Energy Group Board members be from Illinois.

G. Additional FTE-related Proposals

City/CUB witness Mr. Wheat argues for a modification of the Joint Applicants' proposed FTE commitment to require a floor-level FTE commitment of between 2,051 and 2,090 FTEs in Illinois, and increasing the length of the commitment from two years to five years. Wheat Dir., City/CUB Ex. 1.0, 9:155-158. Mr. Wheat's stated reason for this proposed modification is that

“there is no reason for the Commission to approve the proposed reorganization” if it “does not improve the ability of [Peoples Gas] to perform its utility functions and improve service to ratepayers.” *Id.* at 8:147-149. As discussed above, Mr. Wheat’s stated justification is contrary to the plain language of Section 7-204 and the Commission’s application and interpretation of that Section, which in fact has as its purpose to maintain the status quo of a utility’s service quality, not to seek improvements in the level of service quality. *See, e.g., AGL Resources Inc., Nicor Inc., et al.*, ICC Docket No. 11-0046 (Dec. 7, 2011) Order at 13 (“The intention of the statute is to sustain the utility’s service quality status quo, not to achieve quality improvements.”) For this reason alone, Mr. Wheat’s proposed modification to the FTE commitment should be denied.

Mr. Wheat also is wrong in his argument that because the Joint Applicants’ commitment to maintain 1,953 FTEs in Illinois is less than the level of FTEs that exist today, it has no value for Illinois. *See Wheat Reb., City/CUB Ex. 5.0, 7:117-118.* The Joint Applicants commitment to a floor-level commitment of 1,953 FTEs in Illinois for at least two years after the close of the Reorganization supports the Joint Applicants’ statements made in their Application that the proposed Reorganization is not one based on synergies to be created by large reductions in force. *Leverett Sur., JA Ex. 15.0, 17:383-386.* This commitment will help ensure that, as represented, the WEC Energy Group is not looking to create synergy savings by drastically reducing Illinois headcount and moving most of its positions out-of-state. *Id.* at 17:386-388. At the same time, this level of minimum Illinois employment will allow WEC Energy Group the flexibility it needs to seek synergy savings through voluntary attrition in Illinois as discussed in the Application and the Joint Applicants’ testimony. *Id.* at 17:388-390. Further, this will benefit Illinois customers as these savings will be flowed to customers in future rate proceedings. *Id.* at 17:390-391. Moreover, a five-year merger condition on employment levels is not a reasonable length of time,

and would unduly restrict the management and operational flexibility in running the Gas Companies based on changing circumstances. *Leverett Reb.*, JA Ex. 6.0, 28:716-718. For example, it could result in the Gas Companies' customers paying higher rates with no justification other than the existence of the condition. *Id.* at 28:718-720.

For these reasons, the Commission should deny Mr. Wheat's request for a modification of the Joint Applicants' proposed FTE commitments.

H. Extension of Commitment Not to Change Base Rates

City/CUB witness Michael Gorman has requested that the Commission modify the Joint Applicants' commitment not to seek a change in base rates to be effective any earlier than two years from the close of the Reorganization to be a five-year commitment. *Gorman Dir.*, City/CUB Ex. 4.0, 9:209 – 10:232. Mr. Gorman's stated purpose for this modification is to provide customers "assurance of benefits from the reorganization." *Id.* at 231-232. Mr. Gorman's request should be denied for several reasons.

First, as has been discussed throughout this initial brief, the purpose of the Commission's evaluation of a proposed reorganization under Section 7-204 is not to create benefits or other enhancements in a utility's service quality before approving a reorganization. Rather, the standard under Section 7-204 is that the Commission should make the required findings and approve a reorganization if it will at least maintain the utility's status quo and not diminish or adversely impact the utility's service quality or rates. *See, e.g., In re GTE Corp. and Bell Atlantic Corp.*, ICC Docket No. 98-0866, 1999 Ill. PUC Lexis 825 at *28 (Oct. 29, 1999). Accordingly, Mr. Gorman's stated reasons for this proposed modification are not appropriate grounds for the Commission to impose a condition under Section 7-204.

Second, while Mr. Gorman references Peoples Gas' Rider QIP as a reason why the Gas Companies could withstand a longer period before seeking to increase their rates, Mr. Gorman's

analysis fails to account for the fact that North Shore does not have a Rider QIP or any other means to recover capital expenditures between rate cases. Moreover, Mr. Gorman fails to account for the cap in Rider QIP recoveries that can only be reset by the filing of a rate case. Leverett Reb., JA Ex. 6.0, 34:850-858; Leverett Sur., JA Ex. 15.0, 21:467-73.s

Third, Mr. Gorman's analysis fails to account for how various updates to CDOT's regulations have led to dramatic increases in the costs of performing operational work on Peoples Gas' facilities in the City. Leverett Reb., JA Ex. 6.0, 34:858-861. These increases have caused a significant amount of costs that Peoples Gas will incur in 2015 but will be unable to recover in the rates set in the *Peoples Gas 2014 Rate Case* due to the timing of the City's regulations being updated (*i.e.*, the updates took place too late to be included in the analysis for the 2015 test year in the rate case). *Id.* at 34:861-864. And, because these costs are operational in nature, they are not recoverable under Rider QIP. *Id.*

Finally, as Joint Applicants witness Mr. Reed has testified, an extended commitment to not seek a change in base rates is unnecessary and not the vehicle by which customers may derive benefits from the Reorganization. Reed Sur., JA Ex. 17.0, 5:82-83. The Joint Applicants expect that there will be net savings, over time, as they integrate their management, systems and operations, and these savings will be reflected in future rate proceedings for the benefit of Illinois customers by way of reduced operating expenses or lower capital costs. *Id.* at 5:83-87.

For these reasons, the Commission should deny the modification of the Joint Applicants' commitment to not seek an increase in base rates to be effective sooner than two years after the close of the Reorganization.

I. Dividend Restriction

City/CUB witness Mr. Gorman requested that the Commission impose a ring-fence condition on its approval of the Reorganization that limits WEC Energy Group's ability to

require the Gas Companies to make dividend payments, or any other cash transfer to WEC Energy Group, before the Gas Companies fulfill their obligations (both in amount and as to timing) to make distribution system modernization capital improvements. Gorman Reb., City/CUB Ex. 8.0, 7:142-145. Mr. Gorman's reasoning for this ring-fence protection is to protect the Gas Companies' system modernization programs and ensure they are given higher priority by the Joint Applicants than payment of dividends from the utilities to their parent company, in light of the amount of acquisition-related debt proposed to be incurred by Wisconsin Energy to fund the acquisition of Integrys. *Id.* at 7:145-150. Mr. Gorman bases his proposal on a belief that the debt funding of the proposed transaction will increase the financial risk of the new WEC Energy Group. *Id.* at 14:293-298.

The record evidence demonstrates at least three reasons why the Commission should deny Mr. Gorman's proposal. First, the evidence reveals that the Reorganization is expected to result in a stronger more financially stable holding company with both greater financial liquidity and improved access to capital markets. Reed Dir., JA Ex. 3.0, 28:571 – 29:589; Reed Reb., JA Ex. 8.0, 6:125 – 7:132, 10:188 – 11:217; Reed Sur., JA Ex. 17.0, 10:197-208; Reed Tr., 409:14 – 410:12. The credit rating agency S&P does not expect that the additional debt used to finance the merger will result in WEC Energy Group's inability to maintain its current credit ratings or impact its cash flows. Reed Reb., JA Ex. 8.0, 20:405-410. Indeed, Mr. Gorman himself does not dispute the fact that the Joint Applicants' projections and S&P's outlook suggest that the Joint Applicants will have adequate cash flows both to support their acquisition-related debt and to fund their planned capital improvement program, as Mr. Gorman's original cash flow analysis incorrectly assumed how the acquisition-related debt would be financed and failed to reflect WEC Energy Group's actual cash flows. Gorman Reb., City/CUB Ex. 8.0, 11:224-226; Reed

Reb., JA Ex. 8.0, 21:418-427. Mr. Gorman's analysis also incorrectly assumes that the only capital available to spend on the Gas Companies' capital programs is internally generated funds, as funds paid to a parent company as dividends can be returned as equity, or external capital markets are available for debt and for the parent company equity. Reed Tr., 413:17 – 414:18.

Second, the Joint Applicants have made several enforceable commitments in this proceeding that provide adequate assurance that the Gas Companies will continue investing in their infrastructure as is reasonable and appropriate. Lauber Reb., JA Ex. 7.0, 182-188; Reed Tr., 414:19 – 415:1, 415:14 – 416:7. In particular, the Joint Applicants have committed to continue the AMRP, assuming Peoples Gas receives and continues to receive appropriate cost recovery, with a planned 2030 completion date, and to spend minimum amounts on capital expenditures for both Peoples Gas and North Shore during the 2015 through 2017 time period. JA REV. 15.1, at Nos. 5 and 13. Further, the Joint Applicants' commitments to implement Liberty's final recommendations for improving the AMRP, to ensure Peoples Gas works to coordinate with the City in the execution of the AMRP, and to review and attempt to improve their performance with respect to the AMRP on a continuing basis as work on the project progresses also demonstrate a strong assurance that investment in the AMRP will continue after the Reorganization is closed. *Id.* at Nos. 7, 9-11, 35. Mr. Gorman failed to address or respond to the question of why such a restriction is necessary in light of these conditions being in place. Lauber Sur., JA Ex. 16.0, 5:95-97.

Third, Section 7-103 of the Act provides protection and empowers the Commission to take action to stop a parent company from requiring dividends from a utility that would impair its ability to perform its duty to render reasonable and adequate service, as would occur if WEC Energy Group forced the Gas Companies to make dividend payments to the detriment of their

necessary capital investments. *See* Lauber Reb., JA Ex. 7.0, 9:189-200. Section 7-103(2) of the Act prohibits a utility from paying any dividend unless its earnings and earned surplus are sufficient to declare and pay such dividend after provision is made for reasonable and proper reserves, and unless such dividend can be paid “without impairment of the ability of the utility to perform its duty to render reasonable and adequate service at reasonable rates.” Accordingly, the Gas Companies are already subject to provisions of the Act which preclude the types of actions that concern Mr. Gorman. Additionally, Section 7-103(1) of the Act authorizes the Commission to order a public utility to cease and desist the declaration and payment of any dividend if the Commission finds the utility’s capital has or would become impaired. With the Joint Applicants agreeing to a condition requested by Staff witness Mr. McNally to file all reports by credit reporting agencies specific to the Gas Companies or WEC Energy Group, the Commission will be kept apprised of information that would allow it to act pursuant to Section 7-103(1) to prohibit dividends from the Gas Companies if their credit and financial situation indicated that they would be unable to fund their capital expenditures adequately. Lauber Sur., JA Ex. 16.0, 5:98-112; Staff Group Cross Ex. 1 at 5.

Accordingly, based upon the record evidence, the Commission should deny Mr. Gorman’s proposed ring-fencing condition.

V. OTHER APPROVALS/AGREEMENTS

A. Approval Under Section 7-102

The Joint Applicants referenced Section 7-102 in their Application (at 24-25), which requires Commission approval whenever a “public utility may by any means, direct or indirect, merge or consolidate its franchises, licenses, permits, plants, equipment, business or other property with that of any other public utility.” 220 ILCS 5/7-102(A)(d). The same section also requires Commission approval for a public utility to “assign, transfer, lease, mortgage, sell (by

option or otherwise), or otherwise dispose of or encumber the whole or any part of its franchises, licenses, permits, plant, equipment, business, or other property....” 220 ILCS 5/7-102(A)(c).

It is the Joint Applicants’ position that neither of the above-referenced provisions of Section 7-102 applies to the Reorganization, because the Reorganization does not involve a direct or indirect merger or consolidation of two utilities’ businesses or property and is not a sale or disposition of a utility’s business or property, but rather is a change in control transaction subject to Sections 7-204 and Section 7-204A. Accordingly, Section 7-204(e) of the Act applies, which expressly provides that “[n]o other Commission approvals shall be required for mergers that are subject to this Section.” 220 ILCS 5/7-204(e).

Nevertheless, if the Commission determines that the Reorganization is also subject to the requirements of Section 7-102, the information submitted by the Joint Applicants in this proceeding is sufficient to meet the requirements of that Section 7-102. *See* Application at 25. No party other than the Joint Applicants presented evidence regarding Section 7-102. Because the evidence supports the Commission’s findings under Section 7-204, it also supports approval of the Reorganization pursuant to Section 7-102 of the Act, should such approval be necessary.

B. Section 7-204A(a)

The Joint Applicants satisfied all the minimum filing requirements under Section 7-204A(a), including by submitting copies of any proposed affiliated interest agreements in accordance with Section 7-204A(a)(5). *See* Application at 26 and Attach. A. Accordingly, as discussed above in Section III.B, the Joint Applicants seek approval on an interim basis of the WEC Energy Group AIA (JA Ex. 2.4), as recommended by Staff witness Ms. Hathhorn, subject to the conditions described in Section III.B above. Lauber Dir., JA Ex. 2.0 REV., 15:320-323; JA Ex. 2.4; Hathhorn Dir., ICC Staff Ex. 6.0, 5:108 – 7:146; Lauber Reb., JA Ex. 7.0, 10:215 –

11:242; Hathhorn Reb., ICC Staff Ex. 12.0, 5:111 – 6:127; Lauber Sur., JA Ex. 16.0, 6:120-132.

Accordingly, the Commission should approve the WEC Energy Group AIA on an interim basis.

C. Section 6-103 and Section 9-230

Staff witness Mr. McNally recommended that additional conditions be agreed to by the Joint Applicants in order to ensure that post-Reorganization, the Gas Companies will be in compliance with Sections 6-103¹⁶ and 9-230¹⁷ of the Act. McNally Dir., ICC Staff Ex. 7.0, 12:259 – 17:387. While the Joint Applicants do not agree with Mr. McNally that Section 6-103 and 9-230 apply to this proceeding (*see* Lauber Reb., JA Ex. 7.0, 24:516-519, 25:542-555), in an effort to compromise and narrow the disputed issues in this proceeding, the Joint Applicants have agreed to the conditions requested by Mr. McNally, as refined in rebuttal and surrebuttal testimony, as follows:

1. The Gas Companies shall file a compliance report in Docket No. 14-0496 within 180 days after the close of the Reorganization, with a copy to the Manager of the Commission's Finance Department, that describes the Gas Companies' post-merger capital structures and identifies capital structure adjustments, if any, that resulted from the Reorganization, and, in the event that there are push-down accounting adjustments made to the Gas Companies' balance sheets as a result of the Reorganization, the Gas Companies shall file a petition with the Commission seeking Commission approval of the fair value studies and resulting capital structures for the Gas Companies pursuant to Section 6-103 of the Act.
2. Peoples Gas and North Shore shall perform a study of appropriate post-merger capital structures similar to those ordered in Docket Nos. 11-0721 and 12-0001. Commonwealth Edison Co., Order, ICC Docket No. 11-0721, 134 (May 29, 2012); Ameren Illinois Co., Order, ICC Docket No. 12-0001, 121 (September 19, 2012). The study, to be performed by the Gas Companies under the guidance of the ICC's Finance Department Manager, should commence no later than six months prior to, and be presented to the Commission in final form at the time of or before, the filing of the Gas Companies' next rate cases.

¹⁶ Section 6-103 of the Act requires that in any reorganization, the Commission shall authorize the amount of capitalization of a public utility formed by a reorganization, which shall not exceed the fair value of the property involved. 220 ILCS 5/6-103.

¹⁷ Section 9-230 of the Act prohibits the Commission from reflecting in a utility's rates any incremental risk or increased cost of capital which is the result of a public utility's affiliation with non-utility companies. 220 ILCS 5/9-230.

Lauber Reb., JA Ex. 7.0, 23:497 – 24:535; McNally Reb., ICC Staff Ex. 13.0, 4:67 – 5:111; Lauber Sur., JA Ex. 16.0, 11:258 – 13:289. The adoption of these two conditions will address the potential concerns raised by Mr. McNally regarding Sections 6-103 and 9-230. *See* McNally Dir., ICC Staff Ex. 7.0, 17:399-402.

D. ATC

ATCLLC is a Wisconsin limited liability company managed by a corporate manager, ATCM, a Wisconsin corporation, and together, they operate as a single entity, “ATC”, which owns and operates a high-voltage electric transmission system in an area from the Upper Peninsula of Michigan, throughout the eastern half of Wisconsin and small portions of Minnesota and Illinois. Leverett Dir., JA Ex. 1.0, 10:204-208. As a result of the Reorganization, WEC Energy Group will own a majority – 60.31% – of the outstanding shares of ATCM. *Id.*, at 12:263-266. Because ATC is an Illinois transmission-only utility and the Reorganization will result in a change in ownership of a majority of its voting capital stock, the Commission arguably needs to approve this change in ownership of ATC pursuant to Section 7-204 of the Act, as well. *Id.* at 25:553 – 26:558. Accordingly, the Joint Applicants provided all of the information for ATC required by Section 7-204A(a) and submitted testimony demonstrating that the Reorganization meets each of the required Section 7-204(b) findings with respect to the change in ATC’s ownership. *See id.*, at 26:558-586; Application at Attach. A. Neither Staff nor any party to this proceeding has disputed that the proposed Reorganization should be approved with respect to ATC. Accordingly, to the extent the Commission finds that it is required, the Joint Applicants request that the Commission approve the proposed Reorganization from the perspective of ATC pursuant to Section 7-204 and Section 7-204A.

E. Other

In addition to the matters described above, Staff witness Ms. Hathhorn recommended that the Commission require the Joint Applicants to file a semi-annual compliance report on the Commission's e-Docket system, in Docket No. 14-0496, reporting on the status of progress of all conditions imposed by the Commission in this case, until all conditions have been satisfied or the Commission approves a petition from the Joint Applicants requesting that they cease such reporting, whichever comes first. Hathhorn Dir., ICC Staff Ex. 6.0, 9:214 – 10:220. Ms. Hathhorn also recommended that the Chief Executive Officer of WEC Energy Group be required to appear on an annual basis to report to the Commission on the status of the Joint Applicants' compliance with the Order in Docket No. 14-0496, for a similar period of time. *Id.* at 10:222-228. The Joint Applicants agreed to accept both of these recommended conditions as part of the approval of the Reorganization. Leverett Reb., JA Ex. 6.0, 36:888-896.

Staff witness Mr. Lounsberry recommended a condition requiring that the Gas Companies cease their reporting on Condition #24 from the merger that created Integrys, Docket No. 06-0540. Lounsberry Dir., ICC Staff Ex. 2.0, 32:748-764. The Joint Applicants agreed to accept this condition. Leverett Reb., JA Ex. 6.0, 29:742-746; JA Ex. 15.1 REV., at No. 12.

Staff witness Mr. McNally recommended that the Joint Applicants agree to a commitment not to seek recovery of costs related to time spent by witnesses in future rate cases to the development or presentation of costs of common equity size adjustments. McNally Dir., ICC Staff Ex. 7.0, 18:411-414. The Joint Applicants have agreed to a commitment not to seek the recovery of such costs for the affirmative development or presentation of such evidence as long as the Gas Companies are owned by WEC Energy Group, but reserve the right to seek the recovery of such costs when used defensively if another party argues for a downward adjustment

to the common equity of one or both of the Gas Companies based upon the size of the Gas Companies or their parent companies. ICC Staff Group Cross Ex. 1, at 6.

Staff witness Matthew Smith recommended that as part of approving the proposed Reorganization, that the Commission require the development of a Pipeline Safety Management System (“PSMS”) in accordance with American Petroleum Institute (“API”) Recommended Practice (“RP”) 1173. Smith Dir., ICC Staff Ex. 3.0, 15:313 – 16:317. Mr. Smith, however, acknowledged that API RP 1173 is currently in draft form, and that there is no model provided by any natural gas distribution company that has adopted a PSMS, to date. *Id.* at 18:382 – 19:384; Smith Reb., ICC Staff Ex. 10.0, 2:26-30. Joint Applicants witness Thomas Webb testified that the lack of an existing framework to adopt in developing a PSMS and the API RP 1173’s lack of specifics would leave the Gas Companies without clear expectation and guidance about what is expected and how the Commission would judge compliance. Webb Reb., JA Ex. 11.0, 4:77 – 5:108. The implementation of a PSMS would also generate additional costs, and could cause short-term disruption for the Gas Companies’ pipeline safety staff. *Id.* at 5:109 – 7:138. Nevertheless, in an effort to compromise and address Mr. Smith’s concerns, the Joint Applicants have agreed to a commitment to work with Commission Staff to plan and develop a PSMS for the Gas Companies during the two years after the close of the Reorganization. Webb Sur., JA Ex. 20.0, 2:31-39; Leverett Sur., JA Ex. 15.0, 23:515-524; JA Ex. 15.1 REV., at No. 14.

Additionally, Staff witness Mr. Smith recommended that the Commission impose a requirement regarding Peoples Gas moving all of its inside meters to outside locations or an accessible indoor location either as part of the AMRP program or, for those inside meters not covered by the AMRP, to be relocated within ten years after the close of the proposed Reorganization. *See* Smith Reb., ICC Staff Ex. 10.0, 7:151 – 8:163. With respect to the meters

associated with AMRP, Joint Applicants have agreed to a commitment whereby Peoples Gas will develop a new process, to be submitted for Staff review within six months after the close of the Reorganization, with standard criteria and approvals, for when a meter will be allowed to stay indoors or in a decentralized location. Webb Sur., JA Ex. 20.0, 4:69-76; Leverett Sur., JA Ex. 15.0, 22:501 – 23:510; JA Ex. 15.1 REV., at No. 15. However, the Joint Applicants cannot agree to a condition requiring that all Peoples Gas remaining inside meters not associated with the ARMP be moved within 10 years because it would create an additional, large capital program that would greatly increase costs, as well as interfere with and potentially delay current AMRP efforts. *See* Webb Sur., JA Ex. 20.0, 3:46-60; Leverett Sur., JA Ex. 15.0, 23:510-514.

VI. CONCLUSION

The Joint Applicants respectfully request that the Commission make the findings required by Section 7-204 of the Act and approve the Reorganization because the evidence fully supports each requisite finding. Additionally, the Commission should make the other findings reflected herein, and grant any other relief the Commission deems appropriate.

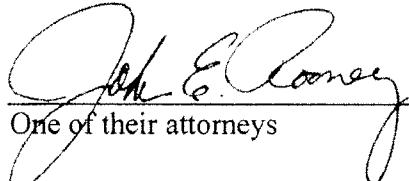
Dated: March 27, 2015

Respectfully Submitted,

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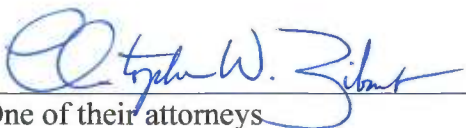
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